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Vol. VI

TRANSCRIPT OF RECORD

(Pages 3567 to 4254)

Supreme Court of the United States

OCTOBER TERM, 1946

No. 343

STATE OF NEW YORK, STATE OF DELAWARE, STATE OF INDIANA, ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, STATE OF ALABAMA, ET AL.

No. 344

STATE OF MAINE, STATE OF NEW HAMPSHIRE, STATE OF VERMONT, ET AL., APPELLANTS,

vs.

THE UNITED STATES, OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL.

No. 345

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, BEAVER, MEADE AND ENGLEWOOD RAILROAD COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, ET AL., APPELLANTS,

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[fol. 3310] Afternoon Session

2 o'clock p.m.

Chairman Aitchison: Shall we resume.

Mr. McCollester: Dr. Van Meter.

T. W. Van Meter resumed.

Direct examination (continued).

By Mr. McCollester:

Q. Doctor, before your cross-examination begins, is there one further explanation that you would like to give covering one phase of your testimony?

A. Yes, sir, there is just one thing. I fear that I might have given the impression this morning that I thought that there was a general idea, or a general desire among Southern economic interests to make a living off of the East. I do not believe that at all, any more than I think that there is a general opinion among Southern industry, in Southern industry as a whole, that the North wants to regard the South as a colonial dependency. As a matter of fact, I think that all of the economic, industrial and business relationships between Eastern Territory and Southern Territory are on the whole mutually helpful, and mutually cordial; and from what I know of the record in this case, I think that there is a substantial portion, if not a major portion of the industrial and economic interests in the South, that has no complaint whatever about the existing class rate structure. Therefore, if I have given the impression that I believe what I have [fol. 3311] just mentioned, I want merely to emphasize the fact that I have gotten that intimation, not from anything that was disclosed by this record, beyond the reading of Mr. Spottswood's testimony, and the reading of the little pamphlet to which I have referred.

Q. Is that all?

A. Yes, sir.

Mr. McCollester: That is all on direct. The witness is now tendered for cross-examination.

Chairman Aitchison: Cross-examine.

Mr. J. R. Bell: If the Commission please, I have just one question, and my question perhaps is not exactly ad-

verse, while Mr. Norman's examination will be. May I ask that question at this time?

Chairman Aitchison: Yes.

By Mr. Bell:

Q. Dr. Van Meter, in your testimony you have used the language "prevention of development in industry in the South." As a matter of statistical fact, can you state whether or not the South has developed of late years more, relatively speaking, in that respect, than has Official Territory?

A. Why, from my knowledge of statistics, I know that there has been a progressive development of manufacturing of various kinds in the South for several years past. I cannot honestly say that I have made a study of the relative [fol. 3312] rate of progress, except to the extent that I have seen, possibly, the study, or the exhibit which was submitted by Mr. Robinson here this morning, which certainly shows that for the 10-year period covered, the rate of progress in the South in the development of manufacturing has been greater than the rate of progress in Official Territory.

Mr. Bell: That is all I have.

Chairman Aitchison: Cross-examine.

Cross-examination.

By Mr. Norman:

Q. Doctor, you have made a number of statements here about the position of the group in the South, as you express it, that is presenting this case for the South. Have you read this record?

A. I have read the record to the extent of Mr. Spottswood's testimony, both on direct examination and cross-examination, and some of the balance of it, although not all of it, however.

Q. Have you read the statement of Governor Cooper, Chairman of the Committee having charge of this case?

A. Now, just offhand, I am not sure whether I have or not, although I think I have.

Q. And you think, do you, that you are qualified to state what the position of that group is, without even having read the statement made in the record by the Chairman of the Committee?

[fol. 3313] A. I did not say that I was representing in that statement, the opinion of the South as a whole. I was merely confining my remarks to the impression that I gathered from my reading of the testimony of Mr. Spottswood, in response to questions which were asked of him by Mr. McCollester.

Q. You used the language "the group in the South having charge of this presentation", and you referred to the position which they have taken; and you did not confine your statement in that connection to Mr. Spottswood. Now, upon what did you base that statement?

A. Well, if I did use the language to which you refer, all that I can say is that it was an unfortunate choice of words, perhaps, because, when I answered Mr. McCollester's original question, he asked me to reply—or to describe, rather, my understanding of this particular case, in the light of the presentation which had been made by Mr. Spottswood; and in attempting to outline what I understood to be the case here, I did it on the basis of the testimony which had been presented by Mr. Spottswood; and if I conveyed the impression that I thought that was the absolute and universal opinion of the entire group that is presenting the case, I certainly made an error, because I have no reason to believe that, and I have no reason for knowing that, because it is my distinct impression, at least, that some of the people in the South who have been represented here are distinctly [fol. 3314] opposed to the position that Mr. Spottswood has taken.

Q. Now, you further stated that the Southern group is asking the Interstate Commerce Commission—and I quote—"to reshape the economic life of the South." Upon what did you base that statement?

A. I based that on the statement—or on the impression that was conveyed to me entirely from Mr. Spottswood's testimony, as well as the pamphlet, to which I have referred, my impression being that they have been prevented by the disparity in class rates, as between the Eastern Territory and Southern Territory, from developing their finished manufactures,—and there is no question about that statement having been made. You can read the testimony introduced by Mr. Spottswood, certainly, and you can read the pamphlet prepared by Mr. Klein, who is an associate of Mr. Spottswood, and you will find that is the definite claim that they make.

Q. I know, but you stated—repeating my question again—that the group representing the Southern interests here is asking the Interstate Commerce Commission to reshape the economic life of the South.

A. Well, Mr. Norman, if I have conveyed the impression here that I was referring to the opinion of a group, I must apologize for using the expression, because in my own mind I was referring—maybe I did use the expression, I do not deny that I did; but in my own mind I was referring to an [fol. 3315] opinion respecting the group only as that was indicated and presented by Mr. Spottswood and his associates.

Q. You further stated that the South desires to industrialize itself at the expense of the East. Upon what did you base that tesimony.—or that statement?

A. As I said, based upon the testimony of Mr. Spottswood. That was the whole idea that permeated all of Mr. Spottswood's testimony. You will recall that I endeavored to try to read a quotation from Mr. Klein's article, but I was not permitted to do so.

Q. Well, now, are not manufactured articles that are produced in the East, sold in great quantities in the South?

A. Why, certainly they are, yes, sir, and furthermore, they always have been.

Q. And do they not move into the South on rates as low as or lower than the rates prevailing in the South?

A. Why, yes, sir, I would say that is true. I believe that is generally agreed to.

Q. Why should not articles that are manufactured in the South, then, move into the East on rates as low as or lower than those prevailing in the East?

A. I am very sorry, Mr. Norman, but I could not get the concluding part of the question.

Q. I say, why should not the articles that are manufactured in the South, move into the East on rates as low as or [fol. 3316] lower than those that prevail in the East?

A. Oh, there may be many conditions that enter into a situation of that kind. There may be many reasons for it. You have just to take the rate structure as a whole. In other words, there may be certain conditions with respect to the rate structure in the South, that might justify a difference in the class rate structure. As a matter of fact, as I say, there are many conditions that may enter a situation of that kind, other than the mere fact of being located in the

North or being located in the South. That is not the only thing that has something to do with the construction of a freight rate. Now, if you would like to have me give you an example of what I mean, let us say that in the South——

Chairman Aitchison: Well, you are getting argumentative, now.

The Witness: That was not my intention.

Chairman Aitchison: You have answered the question.

The Witness: Very well, sir.

By Mr. Norman:

Q. Well, now, as a traffic and transportation expert, what justification do you find for the Eastern carriers refusing to join the Southern carriers in making rates, on the same lines, on the same level as the level on which they join with each other in making rates?

A. If there is a substantial movement—I will grant you, now, that if there is a substantial movement of manufactured [fol. 3317] goods, or if there is a production in the South which makes it possible to have a substantial movement of manufactured goods from Southern territory to Eastern territory, frankly, I do not recommend that position on the part of the Eastern carriers; but this particular proceeding has no reference to rates on particular items which are manufactured in sufficient quantity in the South so that they can supply their home market, and in addition, serve the market in Eastern territory. This record, as far as the testimony that I have seen is concerned, has to do with bringing into being, or creating, in other words, industry in the South. Now, as I stated before, if there is such a production in the South, as far as the situation is concerned which you have outlined in your question, I will say to you very frankly that I see no reason why they should not. Does that answer your question?

Q. Well, now, in saying that they ought to develop their home market first, are you not treating this country as if it were divided into sections, or regions, instead of being an indivisible unit, as one of your great orators said many years ago?

A. Why, certainly, Mr. Norman, and it always has been that way. I mentioned before that from the very time that this country was organized, they started off from scratch in 1607, or along in the early part of the seventeenth century,

[fol. 3318] and the South went one way, and the East went another way, and the West went still another way. We have always had a regional economic division, and I will make the statement, that I think it has been a very good thing. The entire theory of international trade is founded upon the idea that certain areas should produce those things for which they are best adapted, and exchange those commodities for the commodities of other regions which they are best able to produce. There is no crime, there is nothing wrong, there is no economic bondage involved in an economic differentiation of occupation.

Q. Well, you are referring now to trade between nations, whereas, this is a single nation.

A. Well, I will make the same comment. I will make the same statement, with respect to any section, or any state, or any county. You do not have the same industries in a city that you have out in the country. In other words, you raise cows, pigs and chickens in the country, and you manufacture things in the city, and you have a mutual basis of relationship between those people. That is what our entire economy is built up upon, the specialization of particular kinds of occupations. If you have ever read Addison's Wealth of Nations, you will recall that is one of the things that he comments on particularly, that nations become wealthy by this differentiation of occupations.

[fol. 3319] Q. Well, now, will you tell me upon what basis you ought to draw the line, if you are going to draw it within the confines of a common country. Upon what basis ought you to draw the line, and where should it be drawn?

A. My dear sir, I do not think that we draw the line. I think the line draws itself. It always has drawn itself, and it always will.

Q. Well, you started out by illustrating the whole problem with a reference to Virginia. Do you not know that practically all of the state of Virginia is in Official Territory and not in Southern Territory?

A. I did not illustrate anything by any reference to rates in Virginia. I merely stated that we started from scratch in this country, and that one section traveled one way, and another section traveled another way; and as far as Virginia is concerned, back in 1789 Virginia was one of the most populous and wealthy states in the Union.

Q. Well, now, you have stated that the South wants the East to beat a path to its door before it makes the mousetrap.

A. Pardon me?

Q. Your argument is that the South should develop its own industries before it asks for rates into the East; is that not true?

A. I beg your pardon, sir; I am very sorry, but I still do not understand the question.

[fol. 3320] Q. I say, you stated——

Chairman Aitchison: Mr. Norman is referring to the reference that you made to the mousetrap.

The Witness: Oh.

By Mr. Norman:

Q. You say that the South is asking the East to beat a path to its door before the South makes the mousetrap. Now, are you not assuming there that the South does not have any manufactured articles to ship?

A. I beg your pardon, sir, but I did not make that statement. I did not say that the South is asking the East to beat a path to its door, with reference to a mousetrap, or anything else. I was merely referring to the quotation, attributed, I believe, to Ralph Waldo Emerson——

Chairman Aitchison: Elbert Hubbard, I believe, is responsible for that quotation. (Laughter.)

The Witness: Well, sir, I had forgotten about that. Let us give Elbert Hubbard, then, the credit for it. I do not want to enter into any controversy over the source of any literary allusion with Chairman Aitchison, I can tell you that. I was merely referring to that quotation, which says that if a man builds a better mousetrap than his neighbor, no matter where he is, the whole world will beat a path to his door, in connection with the testimony of Mr. Spottswood. As far as Mr. Spottswood's testimony is concerned, you have a case of inverted thinking, so to speak, in which [fol. 3321] he is confused as to his cause and effect, and in which he gets the cart before the horse. In other words, what I said was that his testimony seems to imply that that statement is correct, and that it is the position of the South that it is asking the whole world to make a beaten path to its door, and after that, it will produce the mousetrap. That is simply getting the cart before the horse.

By Mr. Norman:

Q. Now, your counsel has gone to great lengths to prove by other witnesses here that the South has already developed a great manufacturing industry. If that is true, even under your theory, has not the time finally come when the South is entitled to rates on manufactured articles outbound?

A. Well, now, I have not, of course, as I stated before, heard all of the testimony that has been presented here, and therefore I would not be able to vouch for the accuracy of your statement, that counsel here has gone to great lengths to prove that the South has become a great manufacturing community.

Q. Well, you were present here this morning when Mr. Robinson testified, and you heard his testimony, did you not?

A. As a matter of fact, what I said in my testimony was this, that the South has developed certain important manufacturing industries, but as far as having become a great manufacturing community is concerned, comparable to the [fol. 3322] East, why, certainly that is not true, because everybody in this country knows that the great mass of manufacturing is in the East, and a relatively small amount comparatively in the South.

Q. Well, your original theory, as I understood you, was predicated on the proposition that the South ought to develop its manufacturing before it asked for rates. Now, your counsel has undertaken to prove here that the South has developed manufacturing industries. In view of that, do you not think that you have got to take one horn of the dilemma, or the other? Either it has, or it has not, and if it has, under your theory then it is entitled to rates, is it not?

A. Well, now, at the outset, I would not say that counsel here has done what you say he has done, but if counsel has undertaken to prove that the South has developed a very great manufacturing industry, of wide variety, scope and volume, he probably made an error, because the South has not developed on any such basis. There is no question but what there has been manufacturing in the South, and that manufacturing in the South is growing without any manipulation of freight rates whatever; but to say that the South has developed an enormous manufacturing industry, as

your questions seem to indicate here, which has become a rival of the East in production and manufacture,—why, I just cannot believe that my counsel here has endeavored to prove anything like that. If he did, why, he did not do it [fol. 3323] at my suggestion, or on the basis of my testimony.

Mr. McCollester: If the Commission please, if statements of this sort are going to be attributed to me, I just want to be very sure that our position is not regarded as inconsisent. Our position is this, that the premise upon which the Southern contention is based, that the freight rate structure prevents the development of the South, is an unsound premise, because all of the trends show that, regardless of freight rates, the South has developed more than has the North during the past few years. Now, whether it has yet reached the stage where its volume of industrial production justifies, if that is the test of it, your Honor, the same level of rates as in the North, is another matter; but at least the freight rates have not kept it from developing. When the Commission decides this case, we want it to decide the case on the correct facts, and not on any myth.

Chairman Aitchison: I think that this entire testimony has been very argumentative, and while we have not interfered with it at all, we have got to determine this question, and it cannot be decided on the basis of the testimony of expert witnesses, who are called pro and con to voice their opinions as to what the decision ought to be, or what the record in the case shows.

Mr. Norman: Or what the position of certain parties is, particularly when it is not correctly stated.

[fol. 3324] By Mr. Norman:

Q. Now, I want to ask you just one further question on that particular theory, and that is this: just when is the time to come when, under your theory, the South is entitled to freight rates outbound, such as are being contended for here? You say, not until it has developed its manufacture. Well, how far must it develop, to what point must it develop? How are you going to measure that? Do you have anything to say to the Commission as to when and how it can arrive at the fact that the South has or has not reached that point?

A. Why, I think it is just a question of the individual situation. In other words, if you have a particular industry in the South which has developed to a certain stage of growth and maturity, where it is supplying its home market, and seeking markets in other sections of the country, it can very properly I think bring a case before the Interstate Commerce Commission, in which it undertakes to show that possibly a readjustment of certain rates can be fairly claimed. I would not say all, however, because I admit that that would not necessarily be an excuse, or justification, for a general readjustment of rates. Certain other rates in which that particular industry might be interested, rates with respect to securing raw materials, for instance, might justify higher rates on the finished product of that particular industry, in view of the fact that it already has lower [fol. 3325] relative rates on its raw materials. Now, there are other things that enter into the consideration of a freight rate adjustment, besides the mere fact of comparison. As I recall it, I believe one of the Commissioners made the very pertinent remark down at Washington one time, to the effect that when you consider freight rates, you have got to take three things into consideration, namely, competition, comparison, and compromise. In this particular case, from the record that I have read, it does not appear that they are thinking of competition, or that they are thinking of compromise, but that all that they are depending upon is comparison. Well, as I say, there are other things to be taken into consideration, in considering freight rates, besides comparison.

Q. Well, now, let me ask you this question: do you think that under any circumstances an industry should be entitled to put up a plant in Georgia, let us say, for the sole purpose of serving the Eastern territory, and be given reasonably competitive rates to do so, or do you think that because they are just on the other side of the line that is drawn across the country, they must first develop a market in Georgia and then come East if they can?

A. Well, now, I do not believe that I made any reference with respect to an individual plant in case of a particular industry. It might very well be, very possibly be, that you will have a certain natural resource in a certain section [fol. 3326] of the country, from which you can secure the raw material that you want, but as far as establishing rates on that raw material is concerned, that is not the whole of

the story. Take, for example, the production of radium. It takes 50,000 tons of ore, and an ungodly amount of water, to produce a very small quantity of radium. Now, you have your pitchblende ore, say, out in Colorado. Your radium is going to be used by the hospitals in New York. Now, you would not produce radium in New York, if you had to move 50,000 tons of pitchblende ore to New York, and there use a terribly large amount of water, to produce a very small quantity of radium, a gram of radium, in New York City. What would you do? Why, naturally, you would produce it out where the raw material was available. Now, the position that Mr. Spottswood is taking here, is not with respect to one industry, one isolated industry. He takes his position with respect to the entire economy of the South, its entire manufacturing, and not any particular one. Of course, there are exceptions to all rules.

Q. Well, now, let me ask you this final question: you stated, in answer to a question put to you from the Bench, that you did not think freight rates had anything to do with the location of manufacturing establishments.

Chairman Aitchison: The question from the Bench related to high-grade commodities.

[fol. 3327] Mr. Norman: It related to textiles, I believe, if I recall correctly, your Honor.

Chairman Aitchison: Textiles, and coupled with that, brass.

By Mr. Norman:

Q. Well if that is true, what objection do you, representing as you do here the states of New York and New Jersey, have to a parity of rates from and to the South——

Mr. McCollester: Just a moment.

By Mr. Norman:

Q. —with those in the North?

Mr. McCollester: I object to the question, if the Commission please. Dr. Van Meter is not appearing here for the state of New York, or the state of New Jersey. He is appearing here as a witness. Whether or not the state of New York objects is for me to say.

By Mr. Norman:

Q. Well, then, I will put the question this way: what objection have you as a witness, for the states for which you are testifying, as an economist, and as a transportation expert, and whatever else you may be——

A. You can add some more to that, but do not add too much.

Q. Well, I did not mean that in any offensive way.

A. I understand.

Q. —to a parity of rates from and to the South with those in the North?

A. Well, now, Mr. Norman, you started your question out with the proposition that I had expressed the theory that [fol. 3328] transportation rates had nothing whatever to do with the location of manufacturing establishments producing high-grade commodities. I did not say that. I said that it was probably not the determining influence, because there are various factors that have something to do with it. I can take you back to my boyhood home, and tell you about the location of various manufacturing establishments there, that would stay on for a while, and then by and by would go. Where did they go? I believe that I can give you the reason, in almost every one of the cases. Perhaps the matter of transportation rates did have something to do with it, at times. In some cases, there is no question about it, but what they did have something to do with it. However, what I said was, with respect to highly finished manufactures, that ordinarily transportation rates are rather a minor consideration. They are not a major influence. That is what I said. Now, if you will reframe your question, in the light of what I have just said, I will go ahead and try to answer it.

Q. All right. I will ask you this question, then: what is the basis for your objection, if you do object, to a parity of rates in both directions throughout the territory, let us say, for the purpose of this particular question, east of the Mississippi River?

A. Well, just as I told you a little while ago here, Mr. Norman, when you come to making rates, as somebody said, [fol. 3329] rates are made, generally speaking, on the basis of competition, compromise and comparison. Now, you are here emphasizing the feature of comparison. I say that there are many other things which have got to be taken

into consideration in making transportation rates, and I believe that the experience of the Interstate Commerce Commission in making rates, as well as the experience of the railroads, and other carriers, in making rates, will show that they take many other things into consideration besides the mere question of parity. In other words, the rates that will apply on the raw material are only a part of the story, because every phase of the rate comparison must be taken into consideration; and the mere matter of parity between this group, and that group, is not convincing evidence, or the mere matter of lack of parity, or disparity, we will say, between one point in the territory and the rest of the territory, is not convincing evidence that there is a prejudicial rate situation, or a preferential rate condition, or an unreasonable rate situation. It is not convincing evidence. If there is any testimony along that line, it can be counteracted by other testimony.

Q. Do you think that there is justification for disparity in respect of letting one territory, or section, into which you insist on dividing the country, ship into another on the basis it obtains in the other territory, and then when the [fol. 3330] other territory tries to ship into the first territory, make it come in on a higher basis.

A. Oh, there very likely may be, yes, sir, in a good many cases. We have rates that are different, in opposite directions, on the same article.

Mr. Norman: That is all I have. Thank you.

Chairman Aitchison: Is there further cross-examination?

Mr. Bee: Yes, sir, if the Commission please.

Chairman Aitchison: Mr. Bee.

By Mr. Bee:

Q. Do I correctly understand that it is your theory that, if a territory must first build up its manufacturing enterprises so as to supply its home markets before it seeks to enter foreign territory, it likewise applies that rates from the foreign territory, or foreign market, into the territory in question on the same commodities should be on a lower scale than in the opposite direction, which would tend to keep that territory from shipping out?

A. Well, now, if I understand your question correctly, sir, I do not believe that I have adopted or advanced any theory with regard to that. All that I was saying there was that

in Mr. Spottswood's testimony, and in the exhibit of Mr Klein, they took the position that Southern manufacturers as a whole—not any particular specific Southern manufacturer, but Southern manufacturers as a whole—should have the right to market their products in Eastern territory. [fol. 3331] Now, all that I said was that that is reversing the usual course of industrial development; that under ordinary circumstances you do not have a man build up an industry and ship his goods outside of his own territory, for the purpose of expanding, and then come back and supply his own home market. Now, as I say, that is just reversing the usual order of things. That is getting the cart before the horse. And yet they say here very definitely, "What we want to do is to supply this other market over here, and then when we have gotten strong enough from that market, we will come back and supply our own home market." Now, that does not follow at all.

Q. Well, having in mind the fact that the state of Oklahoma came into existence in the year 1889, it could not have had any manufacturing industry prior to that time, could it?

A. Not very well.

Q. Now, is it your theory that rates from outside Oklahoma should be on a lower basis into Oklahoma than the rates from Oklahoma into that outside territory, this permitting the foreign market to continue to supply the demand in Oklahoma, and preventing Oklahoma from building up its own manufacturing industry?

A. Now, you are trying to put something into my testimony, sir, that is not there. I do not have any theory of that sort at all. I say again, as I have repeated several [fol. 3332] times before, that there are many things that must be taken into consideration when you come to making rates. As far as any disparity in the class rate structure is concerned, there may be certain justification for that, which you will find upon consideration of other parts of your rate structure. Now, nobody in this case, that I know of, has said that they want to do anything like that. I have not heard anybody say that; I do not want to do anything like that, and I am sure nobody else in the case wants to do anything like that—keep the state of Oklahoma, or any part of the South or West, in a condition of economic subservience, or economic bondage, or economic subjection.

Q. Well, then may I ask you this specific question, sir: do you know of any condition that would justify a lower basis of rates southbound, let us say, on electrical machinery, than the rates applying northbound?

A. Oh, that might well be, yes.

Q. Why?

A. Because, as I stated before, when you come to consider your rates on the raw material, for example, you might find some justification. Now, another thing that you also have to take into consideration is the condition of industry, and the condition of the carriers. The carriers make the rates, and in doing so, they have got to consider their traffic as a whole. Now, it may be essential, in the case of certain [fol. 3333] commodities, to make the rates in such a way that it will promote the movement of those certain commodities, under conditions which will permit the carriers to derive more of their fixed charges out of the income from the movement of those commodities, and conversely, there may be certain other commodities upon which they are required to charge higher rates, in order to derive, from those commodities, the necessary amount of their fixed charges, considering the movement of those commodities.

Q. Well, having in mind, now, that we are talking about the same identical commodity, electrical machinery, I want to ask you this question: why should the Southwestern carrier secure more revenue for transporting a shipment of that commodity from its connection with an Eastern line, say, at St. Louis, Missouri, than it would receive for transporting that same identical shipment, or a shipment of that same identical commodity, in the opposite direction?

A. Well, as I say, there enters in the condition of the Southwestern carriers—or the particular Southwestern carrier to which you refer; the question of the character of the traffic; the question of what, if an thing, should be done to promote the movement of the particular traffic that you are talking about; and various other questions. And you must also bear in mind that when you talk about decreasing the rates and charges on certain commodities, whether it be [fol. 3334] electrical appliances, electrical machinery, or anything else, that may result in a diminution of income which may compel the carriers, in order to maintain their financial stability, to make up that decrease in income by increasing the rates on certain other commodities.

Q. Well, now, will you tell me, please, sir, how it could possibly reduce the revenue of a carrier in the Southwest, to establish the same rate on electrical machinery from Oklahoma City, Oklahoma, to St. Louis, Missouri, that it charges to handle the identically same traffic, electrical machinery, from St. Louis, Missouri, to Oklahoma City.

A. Well, now, if I correctly understand your question, you are talking about an interterritorial rate structure.

Q. I am talking about——

A. Now, do you mean to tell me—or rather, let me ask you this, to be sure that I correctly understand your question. Are you asking me, now, why should they charge more on electrical machinery from Oklahoma City to St. Louis——

Q. My question is——

A. —than they charge from St. Louis to Oklahoma City?

Q. Let me start over again, Doctor. I have taken it a step at a time here. We have the points, and the commodity, and the varying rate level, and now I am trying to tie you to the specific carrier.

A. What is the question, then?

[fol. 3335] Q. The question is this: why should the Frisco Railway, operating from St. Louis, Missouri, to Oklahoma City, Oklahoma, on a shipment originating in St. Louis, secure less revenue than it secures on that same shipment, or, rather, a shipment of the same commodity, moving from Oklahoma City to St. Louis, destined to the North?

A. Well, now, you know of course that it is almost the universal custom in making rates, to decrease the rates for the longer hauls. The Commission has recognized that principle a great many times, and made the rates on long hauls less than on short hauls. That has been done over and over and over again.

Q. But is there any justification——

A. (Continuing) You can find a great many instances, in the establishment of rate scales, where the Commission has said that the rate per mile should be less as the distance increases.

By Chairman Aitchison:

Q. Are you familiar with the Portland Rubber Heels Case?

A. Which case, please?

Q. The Portland Rubber Heels Case.

A. No, sir, I believe not.

Q. Involving the rates on rubber heels from New England —I think it was New England—or somewhere in the far East, to Portland on the one hand, and their return to the [fol. 3336] same destination on the other hand?

A. No, Mr. Chairman, I do not happen to be familiar with that particular proceeding. However, further answering the question which was put to me by this gentleman, I would like to say this, that if, as he says, the Santa Fe Railway does charge more for the transportation of electrical appliances from Oklahoma City, Oklahoma, to St. Louis, Missouri, than it does for the transportation of electrical appliances originating in St. Louis and destined to Oklahoma City, I would say that there is no justification for that whatever.

By Mr. Bee:

Q. Well, now, let me carry it a little bit further. The shipment is moving between St. Louis and Oklahoma City as part of an interterritorial haul. In one instance it originates in New York, and in the other instance it terminates in New York. Now, my question to you is this: is there any reason for the Frisco Railway to secure more revenue in one direction, than it does in the other, for hauling the same identical commodity, the entire haul being identical in both directions?

A. Well, I am not sure. I would prefer to think about that question a little bit, before I attempted to answer it.

Q. Do you know of any reason?

A. I cannot think of any.

Q. Pardon me?

A. I say, I cannot think of any just now.

[fol. 3337] Mr. Bee: Thank you.

A. (Continuing) However, there might be.

Mr. Barron: Mr. Bee, were you talking just now about rates, or divisions?

Mr. Bee: I was talking about through rates, and I was confining the witness to a single railroad, because he said that mileage entered into it. I have no further question of the witness.

Chairman Aitchison: Is there further cross-examination? (No response.) Do you have any additional questions, Mr. McCollester?

Mr. McCollester: Yes, just one or two, if the Commission please.

Redirect examination.

By Mr. McCollester:

Q. I just want to be sure that the record, in the light of the cross-examination, correctly reflects your view on the matters concerning which you have been interrogated? Mr. Norman asked you whether, if an industry has developed to a point of large production in the South you saw any reason why an individual railroad should refuse to join in rates from that producing point in the South to destinations in Official Territory on a parity with the rates in which it joins with other carriers for application wholly within Official Territory. Your answer, as I noted it down at the time, was that, as to particular rates, you saw no [fol. 3338] reason why such individual railroad should not so join. Then later you referred to the matter of lower rates on raw materials. My question to you, now, is this: supposing it should be the fact, as we think it is, that the rate structure in the South, is quite different from that in the North, and that the rates on raw materials in the South, in the light of which the particular industry referred to located there, are substantially lower, distance considered, than the rates on raw materials within the North, and correspondingly, the rates on the finished products in the South are on a higher level, mile for mile, than the rates on the finished products in the North. Under those circumstances, do you think that, merely because an industry in the South, using raw materials acquired at low rates, has developed to a large point of production, that is any reason for requiring that the rates should be on the same level as rates for transportation wholly within the North?

A. No, sir. What I said was that when it comes to the carriers making rates within a certain territory, the conditions which may prevail in that territory may justify them in taking a more substantial part of their total revenue out of certain commodities than they take out of other commodities; and that, as far as the South is concerned, it might be on a very different basis from what it is in the North

or in the West. I think I made that very point, if I recall correctly.

[fol. 3339] By Chairman Aitchison:

Q. Is it your position that a high outbound rate on a manufactured product can be justified, because the carrier has a low rate on the inbound raw material from which it manufactures its finished product?

A. Why, I think so, generally speaking, yes, sir. Of course, it all depends.

Q. Supposing that they did not have any transportation charge at all on the inbound raw material.

A. That would be an ideal situation.

Q. There are such.

A. Yes, I know. Some people advocate that.

Q. Well, would you justify a high rate outbound if the industry had no transportation problem whatever in connection with its inbound raw material?

A. A high rate outbound?

Q. Yes.

A. Why, I would say, that might be justifiable, yes, sir, because, if you make your rate structure in a certain region so that you are taking a more substantial part of your income from a certain kind of traffic than you are from other kinds of traffic, you still may find it justifiable; and furthermore, if you were to reduce the rate on the particular commodity, immediately you would have claims for a similar reduction in rates on similar commodities.

Q. You are basing that, then, upon a consideration of [fol. 3340] what the traffic will bear.

Mr. McCollester: Naturally.

By Chairman Aitchison:

Q. Is that right?

A. That is right, naturally, yes, sir. We are bound to.

Q. As against the general principle that the shipper or industry is entitled to the benefit of its geographic location?

A. Well, I am putting it on this basis; when it comes to making rates, as far as the railroad is concerned, there should not be any rate below the cost of service, the carrier is entitled to have no rate less than the cost of the service; and as far as the shipper is concerned, the shipper is entitled not to have any rate that is in excess of the value

of the service. Now, as between those two elements, the cost of service and the value of service, there is a zone of reasonableness, and a considerable zone. Now, you may on certain commodities derive more than a proportionate share of your fixed charges, for the service of the carrier, which would of course necessitate deriving a lesser proportion of your fixed charges from some other commodity; but as long as you do not exceed the value of the service, you have, as I say, a certain zone of reasonableness in there, between cost of service and value of service, when you come to fix your rate. Of course, if you want to insist upon it, the situation may be such that the commodity will bear the rate. I do not think that charging what the traffic will bear [fol. 3341] necessarily has any sinister influence in rate making. Under certain conditions the rate might be very low.

By Mr. McCollester:

Q. Is it not, Dr. Van Meter, rather than being a matter of just the inbound rates versus the outbound rates, with respect to a particular industry, a matter of the difference in the entire rate structure——

A. Yes.

Q. —and distribution of the total transportation burden among different freight in different territories.

A. With respect to the character of freight?

Q. Yes.

A. Yes, indeed.

Q. Now then, pursuing my question one step further: in the instance that we have been talking about, that of an industry developed to a state of large production in the South, with a rate structure in the South that divides the transportation burden on the basis of high rates for the finished product and low rates for the raw material, do you see any reason why, if that particular industry wants to ship into the North, the Southern carriers should be required to charge or receive, for their portion of the haul within the South, rates on the level obtaining in the North rather than rates on the level obtaining within the South?

A. No, sir.

Mr. McCollester: That is all.

[fol. 3342] Mr. Norman: Just one further question, if your Honor please.

Chairman Aitchison: Commissioner Splawn, has a question or two.

Mr. Norman: Certainly.

By Com. Splawn:

Q. Dr. Van Meter, as I listened to your testimony here, I gathered that you are testifying, and addressing your remarks, to a theory based on the incidence of freight rates generally, is that correct?

A. Yes.

Q. In other words, you have not undertaken to advise us as to whether or not, on the facts in this record, existing classifications and class rates should be changed; and if so, how, or how much, have you?

A. I have no constructive suggestion to offer in that connection, Mr. Commissioner, or on that point, just at the present moment, because I have not given it enough study as yet. I am very sorry to be compelled to answer your question in that way, but I only came into this case, with respect to testifying here, not very long ago. While, of course, I do have some general ideas about the matter, I would be very loath to attempt to make any suggestion along that line just at the present moment.

Q. Well, now, as far as the incidence of freight rates is concerned, I gather from what you have said here this morn- [fol. 3343] ing that you think that the freight rates follow the traffic instead of the traffic following the freight rates, by and large; is that correct?

A. By and large I think that the character of your freight rate structure will follow your economic development, rather than the reverse. In other words, you may establish an ocean route, and you establish such ocean route, not because you think that there is going to be some trade there, but you know that there is an opportunity for trade there. It may take some time to develop after you have established that ocean route, but you know it is going to be there. You do not go and establish an ocean route to the North Pole, merely with the expectation of having some traffic originate there, merely because you have an ocean route there. You establish your ocean route where you know there are possibilities of trade. In other words, I would say the transportation in its initial stages follows trade, rather than trade following transportation.

By Chairman Aitchison:

Q. Is that the theory upon which the Great Northern Railway was built?

A. Well, I do not know, Mr. Chairman. That may be so. Mr. Hill had a very great vision for that country out there. He saw the potential capacity of it for the production of wheat, and other things.

Com. Splawn: I have nothing further.

[fol. 3344] Chairman Aitchison: Mr. Norman?

Recross-examination.

By Mr. Norman:

Q. Doctor, I just want to ask you this final question, if you please: assuming two manufacturers, one located in Chicago, let us say, and the other located in Birmingham, Alabama, manufacturing a common article, stoves, we will say, for the purpose of my question, and assuming further that both of those manufacturers get their raw material without any transportation charges on it whatever. Now, if the Birmingham manufacturer alleges that he is being discriminated against by reason of his not being given a parity of rates with his competitor at Chicago, do you consider that it is any legal answer to say to him, "This is justified because the carriers that perform the first portion of the haul have a different method of distributing the transportation burden than the carriers that perform the latter portion of the haul"?

A. Oh, yes, sir, certainly; just as much as there is, in certain territories, in charging more to get into amusements, or anything else, than you charge in other regions, or territories.

Mr. Norman: That is all.

Chairman Aitchison: If there are no further questions, you are excused, Doctor.

The Witness: Thank you, sir.

[fol. 3345] (Witness excused.)

Mr. McCollester: If the Commission please, Mr. Bauman will be the next witness. Mr. Bauman is representing the State of New Jersey. Mr. Peacock, Assistant Attorney General for the State of New Jersey, is ill, and is not able

to be here. Therefore, although I am in the employ of the State of New York, I will ask your leave to call Mr. Bauman to the stand and examine him.

Chairman Aitchison: Very well.

MILTON P. BAUMAN was sworn and testified as follows:

Direct examination.

By Mr. McCollester:

Q. Please state you name.

A. Milton P. Bauman.

Q. You are testifying here for the State of New Jersey, are you?

A. Yes, sir.

Q. And you appear for that state in this proceeding?

A. Yes, sir.

Q. Will you please state your qualifications for the record, and then just proceed in your own way with your testimony and the exhibits which you have prepared for introduction here. I am appearing here for the State of New Jersey; its governor, Charles Edison, with whom the character of the evidence to be presented here has been discussed; and also the New Jersey Board of Commerce & Navigation. I [fol. 3346] have been engaged in traffic and transportation work since 1920.

Mr. Norman: If the Commission please, I think that it will be generally conceded that Mr. Bauman has had a long experience in traffic and transportation matters. I am certainly willing to so concede.

Chairman Aitchison: Very well.

The Witness: I would just like to add, if you please, that the present time I am the head of an organization which operates as a Traffic Department for various manufacturers located throughout the United States, in some twenty states, in all sections of the country. In the course of my duties, I have had occasion to familiarize myself with the various rate structures in the different territories, and also interterritorially, and the machinery for making rates. I have also on many occasions appeared before the Interstate Commerce Commission, and various regulatory bodies within the states. My own personal activities have been

concentrated more than anything else in the determination and analysis of the flow of traffic as related to freight rates. I have also had occasion, during the past 7 or 8 years, to have made studies which resulted in the location of various plants in diffent sections of the country, to which I will subsequently refer. It is the position of the State of New Jersey that this industrial development is due to natural [fol. 3347] geographical advantages primarily; first, access to the vast nearby consuming areas; secondly, access to ports that afford a water movement of its products in coastwise and intercoastal service; and third, access to ports for the drawing in of raw materials from domestic and foreign sources, and for the export of its product to all parts of the world. This has resulted in the development of a diversified industry in the state, designed for the mass production of consumer goods. Much of the industrial development of the State of New Jersey, relatively, preceded the coming of the railroads, and the greatest degree of its development preceded the establishment of the class rate structure which is here under investigation, as will be seen in the exhibit to which I shall now refer. May this exhibit be given the next number in order, please.

Chairman Aitchison: 161.

The Witness: Thank you.

(Exhibit No. 161, Witness Bauman, marked for identification.)

The Witness: This exhibit has been prepared under my direction and supervision, and is true and correct, to the best of my knowledge and belief. Copies of the exhibit have been distributed.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

[fol. 3348] Chairman Aitchison: Continue.

The Witness: I might explain that the mechanical setup of the exhibit is that it is divided into four sections, and each section is designated by the letters A, B, C and D, respectively. The various pages in the section are identified by the number—or rather, by the letter, of the particular section. The first section relates wholly to the industrial development of the State of New Jersey, and the evidence included therein is to support the statement that it is the natural geographical advantages of the state that are

responsible for the industrial development of New Jersey. As will be seen on the first page of Section A, the industrial development of New Jersey, during the period from 1880 to 1930, started before the creation of the Interstate Commerce Commission, and before the determination and establishment of the class rates which are here under investigation. I think that this page of the exhibit is self-explanatory. The next page of the exhibit is designed to show that New Jersey has an industrial belt running across the geographically narrow center, west and east; that is, east of Philadelphia, and west of New York City. That page shows the population of nearby large consuming areas of population, and is self-explanatory as to distances and rates.

By Chairman Aitchison:

Q. The page of the exhibit to which you are now referring, is that denominated as A-1, is it?

[fol. 3349] A. Yes, sir. Within an average distance of 129 miles, the cities alone have a population of 14,854,587 people, and within 200 miles of Newark there are over 22,000,000 people. The class rate, first class rate, for the average distance necessary to serve this area, is 67 cents, and in the lower left-hand corner of this page are found the lower class rates.

Now, in connection with the matter of plant location; in 1938 I had occasion to make a study which resulted in locating a manufacturing plant at Milltown, New Jersey, 3 miles from New Brunswick. The raw materials were, first, cotton piece goods from Chicopee, Georgia, a plant owned by the same mill which was locating the new plant, which later was located in New Jersey; second, cotton from Texas; third, woodpulp from Berlin, New Hampshire; and fourth, imported rubber. I had made available to me the actual and potential consumption statistics, and the plant was located in Milltown because of its geographical proximity, first, to the large consuming areas which are adjacent to it, that could be reached and served at relatively low rates because of the short distance that was involved in the distribution; secondly, because of the intercoastal service, which made accessible northcoast and westcoast freight through the nearby ports of New York and Philadelphia; and thirdly, the coastwise service, which afforded service to the South Atlantic and the gulf ports. Now, just within

the past week I have been asked by these same people [fol. 3350] to locate another plant for them on the west coast, because the intercoastal service has now been discontinued: In other words, it is high freight rates that make for a decentralization of industry, rather than low or reduced freight rates. The premise that has been expounded to you here, that if rates from the South to the North are reduced, or if the interterritorial rates are reduced, or if any lower rate level is established to the Mississippi River, it will make for decentralization of industry, is utterly fallacious. From my definite observation, from all that I know about plant location, I can say that, to the contrary, it will make for a centralization of industry, because of the possibility of mass-production at low cost, and distribution at low cost. I think that is further emphasized by my experience in 1922 and 1923, when I was with Colgate & Company, manufacturers of soap, located in New Jersey, at Jersey City, and serving the entire country from its plant at Jersey City. When freight rates intraterritorially were increased 40 per cent, the management of the company decided that it was time for decentralization, but it was not until rates were increased beyond that higher level that decentralization was actually resorted to. With the coming of mileage scales such as we have had in the interim, that decentralization of the soap industry in general, and particularly as to Colgate & Company, either [fol. 3351] through the extension of its own plants, or through merger, has resulted in the following additional plants today: one at Jersey City, New Jersey; one at Jeffersonville, Indiana, which was located there because the State of Indiana had an abandoned reformatory to offer, in the way of buildings; one at Milwaukee; one at Chicago; one at Kansas City,—and the plants at Chicago and Kansas City were acquired through merger. The last plant built was at San Francisco, California. At that time I made the studies for plant location for Colgate & Company, and the South at that time was absolutely out of the picture in so far as the establishment of any such plants was concerned, because at that time no one had found ways and means of producing soap in the warm climate prevalent in the South. Since that time, however, ways and means have been found by the soap people, and I understand that in due course a plant will be located in the South simply because there is a

large consumption of soap within the South. Now, my subsequent exhibits——

By Mr. McCollester:

Q. You mean, do you not, the subsequent pages of this exhibit?

A. Or rather, I should say, the subsequent pages of this exhibit—thank you—show, first, the principal steamship lines and destinations served by them from the port of New York,—for the purpose of showing the immediately accessible water service available to manufacturers in New [fol. 3352] Jersey, for distribution not only domestically, but all over the world. Page A-5 of the exhibit deals likewise with the port of Philadelphia. From there on, we find——

Q. Right at this point, if you please, Mr. Bauman: have you shown these features as to New Jersey, that is, the accessibility to water, and to large centers of population, as explaining the industrial development of New Jersey, rather than the fact that New Jersey has the Official level of class rates which is lower than the level in the South?

A. All that I have endeavored to show in this exhibit is that the freight rate structure, by rail and by highway, is identical; and the reasons for the location of this plant in New Jersey. I might say in addition that the location in New Jersey, with regard to the ports of New York and Philadelphia, is not entirely confined to the matter of cost, but it also has to do with the ability to make steamship sailings to all parts of the world on very short notice.

The series of maps, the first of which has the number 1 in the upper left-hand corner, on page A-5, shows the location of the New Jersey principal industries; and it will be noted as we go through these maps that generally they are located on water, having year-round navigation available to them; and that they are also served by railroad.

Chairman Aitchison: Apparently you have two pages A-5 here.

[fol. 3353] The Witness: Pardon me?

Chairman Aitchison: You have two pages denominated as A-5.

The Witness: Oh, yes, that is true. One of them should be corrected. Thank you for calling attention to it. Perhaps the simplest way would be to make one of them, the second page, A-5-5—that is, the first of the maps.

[fol. 3354] The first shows the Newark district in the eastern part of the state, located on Newark Bay, Passaic River, and within a distance of ten miles of New York City. The next map is the Perth Amboy district, nearer to the central part of the state, located principally on the Raritan River. The third map, Jersey City and Hudson County, located directly across the Hudson River from New York City and also on Newark Bay.

Page A-8, a series of maps in the western part of the state, generally on the Delaware River, and showing the industries there and their proximity to Philadelphia, also a large consuming area. Page A-9 returns to the eastern part *part* of the state, northeastern part of the state, shows industries located within 20 miles of New York City but also on navigable water, the Passaic River. Page 9, I mean map 9—it should be marked page A-10 there—shows the additional industries on the Raritan River, in the southern part of the state, and page A-11, industries again in the eastern part of the state, west of Newark Bay, such as Elizabeth, Linden, Rahway and Carteret, which are within 15 miles of New York City. Page A-12 is still in the eastern part of the state, adjacent to the Hudson River area but north of Jersey City, and shows industries located on the Hudson and Hackensack Rivers; and the last page, page A-13, is the western part of the state, north of Philadelphia, on the Delaware River and within 30 miles of Philadelphia.

[fol. 3355] I have then had reproduced four pages of trademarks, showing the industries and the utilities in New Jersey, which result from New Jersey's proximity to large consuming areas and markets. The result is a diversified trademark production of nationally advertised goods. These, generally, are sold on the delivered basis, that is the delivered basis is the same at Newark, New Jersey, New York City, as they are at Atlanta, Georgia, Birmingham, Alabama, etc.

The consumer in the South pays no more than the consumer in New Jersey, and thus the northern consumer helps to pay the southern consumer's freight rates and consequently preserves southern purchasing power. To illustrate that, laundry soap is sold on the common level at all points east of the Mississippi River, and what is taken into the delivered price is the average of the transportation cost of delivering all of that soap at all points in the area east of the Mississippi River. That is a weighted average. So

that whatever lower freight rates exist in the North on shipments from northern producing points, they redound to the benefit of the southern consumer as much as they do to the northern consumer.

By Chairman Aitchison:

Q. I wonder why you put Coca-Cola in there, with respect to transporation to the South.

A. I didn't put it in. Let me say this, I didn't intend for a minute to say New Jersey's industries were dependent [fol. 3356] upon transportation from the South or related to it. We have our industrial development not because of transportation from the South but because of the favorable location of the State and the highly developed consuming area.

Q. I thought these were industries which you said were distributing on an equal basis all over the country; the freight rates are being equalized?

A. They are sold on a delivered basis, where the sole production, naturally, is New Jersey and the equal delivered price is reflected in all sections of the country, but if a commodity is produced in New Jersey, we are still proud enough of it to show it, but we don't intend to indicate that that product is then moved into southern markets if there is a southern plant. I don't intend for a minute to say by this exhibit that every one of these products is sold in the South, but the reason for the location of the plant in New Jersey is because New Jersey's being in the center of a large consuming area; and what I am trying to show by this exhibit is that it is utterly fallacious to attribute to New Jersey, its industrial development to a preferential rate structure.

By Com. Alldredge:

Q. I understood you to say that all these products are sold on a delivered basis.

A. I say that the majority of the trademark products that are sold nation-wide or in large areas.

Q. Well, you put Esso in there. I suppose that has ref- [fol. 3357] erence to gasoline.

A. I suppose it does.

Q. That is not sold on a delivered basis?

A. No, it is not.

Q. Well, you put A. & P. in there, their products. They don't sell them that way.

A. I think they sell a great many products on a delivered basis and a uniform price, that the manufacturers' tendency is in that direction.

Q. They don't work out that way in the retail stores, do they?

A. I think in a great many cases they do.

Q. Common price levels all over the United States?

A. Yes, laundry soap, for instance, which is sold in A. & P. stores.

Q. Of course, that is just one article.

A. Well, there are a great many others. Anything that is sold on a trademarked—Colgate's shaving cream, its dental paste, for instance, it adopts the same policy. Wherever the effort is to maintain a uniform price throughout the country, the result must be an averaging process of the transportation cost of the product from points of origin to all consuming points. That is the only way it can be brought about.

Q. I notice duPont trademarks. Those products are not sold at a common price all over the United States, are they?

A. No. I think, if you wish, I will confine my remarks to [fol. 3358] common prices to shelf goods and not to bulk commodities that are produced in New Jersey. I am talking largely upon the trademarked shelf goods, articles that are sold in national commerce and that generally move on class rates.

By Chairman Aitchison:

Q. I was wondering just how the New Jersey Central entered into it.

A. That is one of the industries we are all so proud of, our utilities, including our railroads, and we are here to protect them just as much as we are the manufacturers in the state.

Q. You have included the various railroads in this?

A. Beg your pardon, sir?

Q. You have included the railroads, the various railroads?

A. We have included among the industries in the state transportation on those railroads which operate within the state.

By Mr. Norman:

Q. Do your mean that all these commodities are manufactured there? For instance, you have got Pittsburgh Plate Glass Company.

A. Yes, they have a linseed oil plant in Newark, New Jersey.

Q. Linseed oil?

A. That is right.

Q. Not plate glass?

A. No, they have a plant in New Jersey in which they manufacture paint oils.

By Chairman Aitchison:

Q. Just for curiosity, what does duPont manufacture in [fol. 3359] New Jersey?

A. DuPont have a powder plant in New Jersey, and then they have extremely large chemical plants on the Delaware River at Deep Water and Carney's Point.

Going now to Section B, this section deals with the factors determinative in selection of manufacturing sites, and primarily with studies which were made during the past five years in my office, and with which I am familiar, as to the factors that finally determine the selection of a specific site. The first of these, shown on my page B-1, is covered fairly well in an extract from a report of the Commission, and I have emphasized and underlined what I thought were the pertinent parts, and that is in the lower right hand corner: "The construction of the pulp mill is said by the corporation to be dependent in a large measure on the assurance that its wood supply from its own lands and from Atlantic Coast Line points will be available on the basis of freight charges no greater than those produced by the single-line mileage scales. The fact that the scales are lower in the South on pulpwood than in the North is shown on page B-2 of this exhibit.

What I want particularly to point out with respect to this plant, plant site which was ultimately located at Acme, North Carolina, is that the other points under consideration were Palatka, Florida, and a point in Mississippi and the final determination was largely controlled by the fact that [fol. 3360] the Acme site had large areas of timber available at the Roanoke Rapids scale of pulpwood rates, plus the fact that the mill could be located on navigable water;

and, secondly, that it was as far north as we could find the site, so as to shorten as far as possible the distance that would be required to move the finished product.

The next plant which I have occasion now to refer to is shown on pages B-3 and B-4, which was a question of whether or not a rayon plant presently existing—this study was made in 1940—as to whether or not a rayon plant presently existing in western Pennsylvania should be enlarged or whether a new site should be selected to serve the southern market somewhere in the South. The controlling factors were the availability of quantity and quality of water for manufacturing purposes and the costs of assembling the raw materials, plus the available labor market. The determining factor here was the fact that to assemble the raw materials, to obtain the labor market and the necessary quantity and quality of water in the South was confined to points at Hartsville and Calhoun, South Carolina, which was quite a distance from the coal fields; and it was finally decided that, because the western Pennsylvania plant was located close to the coal fields and that the possibility of transporting coal from the western Pennsylvania coal fields to this site, to the existing site in western Pennsylvania, was at a relatively low cost, [fol. 3361] approximately from $7500 to $11,000 per month less than would be true if you located the plant in South Carolina, it was finally decided to enlarge the western Pennsylvania plant and continue to pay the interterritorial level of class rates to the South.

By Chairman Aitchison:

Q. That is on the manufactured products?

A. I beg your pardon, sir?

Q. The interterritorial class rates on the manufactured products?

A. The interterritorial class rates were on a manufactured product, rayon; rayon yarn.

Chairman Aitchison: I didn't understand you; just for clarification.

The Witness: I beg your pardon, sir?

Chairman Aitchison: I was just trying to find out what you said.

The Witness: Yes, surely.

Chairman Aitchison: Now, may I ask this:

By Chairman Aitchison:

Q. Take your B-3 and indicate the commodities which move on class rates and those which would have moved interterritorially.

A. I think the answer to your statement—I will be glad to read it if you wish—will be found largely on the bottom of page B-4, in the lower left hand corner. And there we [fol. 3362] have taken not only the present rates and the authority for the present rates but also what we thought were obtainable rates and the authority for the obtainable rates, which was part of the study we made at that time.

Q. Well, with the exception of burlap bagging, possibly sulphuric acid and coke, are not the points shown on B-3 all in Official Territory?

A. Yes, but these raw materials were unobtainable at any nearer source of supply, if that is the thought you had in mind.

Q. The rates here are not interterritorial rates; they are Official class rates.

A. To Hartsville and Calhoun we have compared the actual going rates in effect at the time the study was made, and additionally have shown that what we believed in our office at that time were potentially obtainable rates, and the exhibit also shows the basis for what we thought was the obtainable rate. We didn't think the coal rate——

Q. You don't understand me yet.

A. I am sorry.

Q. You were comparing with how much the transportation costs were at the present plant which is in Pennsylvania.

A. That is right.

Q. Now, except coal and except burlap bags—and I don't know where Pulaski is—all the other articles shown on [fol. 3363] this page would move intraterritorially on the Official scale if they moved on class rates?

A. If they moved to Pennsylvania.

Q. Yes.

A. But if they moved to the compared points, they would move interterritorially.

Q. Yes.

A. But the controlling factor, in the last analysis, here, was the difference between the possibility of obtaining coal at a delivered cost at the only available compared site, and that was what finally controlled the determination to enlarge on the western Pennsylvania plant rather than to build a new plant in South Carolina. I say this study was made in 1914 and not prepared for the purposes of this case.

By Com. Alldredge:

Q. When?

A. I beg your pardon, sir?

Q. When?

A. May, 1940.

Mr. Grubbs: He said 1914.

By Mr. Norman:

Q. A great many of those rates are not class rates but exceptions, aren't they?

A. Well, they are both, yes, Mr. Norman; but I have never found an industry yet that cared whether a rate was a class rate or what you call it. What they were interested in was what it cost to get the raw materials and what it [fol. 3364] cost to ship the finished product out again.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

The Witness: I have never found any business executive yet who was in any way interested in whether a rate was a class rate or commodity rate or an exception to the classification, in determining whether or not it can reach sources of raw materials or, in finished products, where it should market its finished products or where it should locate its plant. They are interested in the entire transportation structure, and then they apply it with so many other elements in finally making their policy decision.

There is one error here that I would like to point out on page 3, B-3, two figures there that should be transposed. In the next to the last column, 4th figure down, $9,083.25 should be transferred to the left, under Calhoun, and the Calhoun figure of $7431.75 should be transferred to the column to the right.

By Chairman Aitchison:

Q. Now you are ready for your Section C?

A. I want to go first to B-5, if I may, for a moment. B-5 has to do with a study which was made in 1938 with reference to the location of a plant for the production of carbon electrodes by a manufacturer who had never therefore engaged in such manufacture. The points of or the manu- [fol. 3365] facturing sites that were given consideration were Niagara Falls, New York; Charlestown, West Virginia; Keokuk, Iowa; Columbia, Tennessee; Knoxville, Tennessee; and Kingsport, Tennessee. Niagara Falls was finally selected because the predominant consumption was in the Niagara frontier area. I have been told, in fact I was informed only last week that with the development of war industries in the South, that the demand in the South has developed sufficiently to result in the establishment of two carbon electrode plants in the South: one at the site that was here considered, Columbia, Tennessee; and the other at Morgantown, North Carolina; which, I think, proves that it is generally the area of consumption that controls the determination of the location of a manufacturing site.

Now, Section C of my exhibit is a series of 12 graphic studies showing revenue tons originated for the years before and after the effective date of the Southern class rates, that is the docket 13494 rates, the Eastern class rates, that is the docket 15879 rates, there on stone for quarterly periods, before and after the decision of the Commission in the Southern Governors case.

I want to confess that what study I have been able to make of these rates fails to bring home to me any uniform chronological flow of tonnage related to the class rates in either territory or interterritorially. In my opinion it is [fol. 3366] fallacious to primarily attribute lack of manufacturing development to a class rate structure. Class rate structure is general in character and touches only on a relatively small part of the activities of an industry. Whether or not the industry is influenced by the class rate structure cannot be determined if only the class rates are considered.

Now, referring first to page C-1, for the first quarter after the stone rates on finished stone went into effect, that is, they went into effect June 1, 1940, then the third quarter and the fourth quarter, Alabama had an increase and

Georgia had a decrease on the same rates. Ultimately Georgia had an increase at the end of the second quarter of 1942, while Alabama was back where it started from.

Now, I have trouble, frankly, simply looking at rates, to determine how they produce that result. The same thing is true on the next page. C-2, Alabama lost and Georgia gained in the same rate structure. On page C-3, neither the 13494 nor the 15879 changed the flow nor the trends in the traffic in any way. May I say here, from these exhibits, what I have taken are the commodities that are included in the Bureau of Statistics manufactures and I have shown the commodity group number and I have selected all of those which I think moved predominantly on class rates.

As I say, out of this series of exhibits, I haven't found—this series of graphs—I haven't found any uniform prin-
[fol. 3367] ciple that could be related to revenue tons originated and the class rate structure.

Section D, I have taken the formula prescribed by the Commission in the so-called border cases, that is the North Carolina Corporation Commission case, the Kentucky case and the East Tennessee border case, and shown the effect of applying that formula to points in the South with a population of 20,000 and over, that is, between points in Official Territory and points in the South with a population of 20,000 and over, and the recap thereof is to be found on page D-10. These border cases and the rates prescribed by the Commission therein reflect the latest pronouncement of the Commission as to the blending in of the Northern and Southern rates; and I think this exhibit does offer at least the machinery for determining the extent to which that would or would not affect rates in the so-called deep South, which is the only part of the area east of the Mississippi River that has not had its class rate readjusted since the establishment of the Eastern class rates in Docket 15879.

I would like to offer Exhibit 161, if I may.

Chairman Aitchison: Without objection, it is received.

(Exhibit 161, Witness Bauman, received in evidence.)

The Witness: Now, I would just like this additional comment, if I may, and that is that in New Jersey, what we
[fol. 3368] fear and hope will not happen in this case is the prescription of a class rate structure that will be rigid and put the country and manufacturing in a straight-

jacket. We can't conceive of how you can have uniformity without doing that, and we think to do it is to ignore all of the different elements that enter into a determination of rate structures that fit industry. I think a rate structure that doesn't do that is contrary to the best interests of the country. To determine a rate structure that does fit industry, it seems to me that the last place to go is to your class rates. You have industries that within themselves and in connection with the carriers voluntarily work out, in some instances, rate structures that are relatively low for short distances and high for the longer distances. That is in the case where the industry desires to decentralize. You have others where you do not have decentralization and you have long-distance rate scales fitted to meet that picture. I can't conceive how you can—may I add a third illustration, and that is that you have industries in this country that would dry up if, in normal times, they weren't free to meet foreign and unregulated competition at the ports, and it seems to me that you can't have a class rate structure, either uniform or otherwise, that is going to move all of the—or the principal commodities on which our national prosperity is based. I think that the less control that any class rates emanating here may have on in-
[fol. 3370] dustry in general is in the national interest, and that it should be confined, if at all, to less than carload rates.

As to those, may I add that my understanding of the function of a traffic manager of industry is to avoid the payment of less than carload rates as far as possible by resorting to either a pool car distribution at stopover points, the use of stopover privileges, the making up of pool cars for break bulk delivery in metropolitan areas, the use of warehousing and, if he can't escape that, the use of the forwarder; but certainly you attempt, as a traffic manager, to avoid the payment of class rates just as much as possible, and certainly for the long hauls, where the spreads justify, resort to other means of transportation.

That is all I have on direct.

Chairman Aitchison: Cross-examine.

Mr. Norman: Mr. Bauman——

Chairman Aitchison: Mr. Norman, you had better come up here.

Mr. Norman: I only have a few questions.

Cross-examination.

By Mr. Norman:

Q. On page B-2 you show the Trunk Line scales and Southern scales on pulpwood. Why don't you show the New England scale?

A. Well, because this plant was to be located in Southern [fol. 3370] territory and New England wasn't even thought of, I didn't see where, at all, it came into the picture.

Q. This was just with reference to a particular plant?

A. That was with reference to a particular plant shown on B-1.

Q. Now, on page C-2 when you refer to stone, that shows the tons originated in Alabama, Georgia, New England states and New Jersey. What kind of stone is that?

A. Well, now, do you mean what kind of stone is it that moves in New Jersey?

Q. Yes.

A. It is rip stone that moves in large quantities from the interior part of New Jersey to its waterfront, and it is used to preserve the beaches.

Q. To what?

A. To preserve the beaches from the ocean.

Q. That is in no way competitive with the Alabama and Georgia stone, is it?

A. I didn't say that it was. I didn't try to prove anything by these exhibits with relation to tons and rates. I don't think there is any relationship to them.

Q. Well, I understand you——

A. But somebody could have come along and seen we had that big movement in New Jersey and attributed it to freight rates, and that is not the answer at all.

[fol. 3371] Q. I understood you to say, though, that you couldn't see that, as a result of the reductions made in the Governors commodity rate case, that there had been any change in traffic at all, is that right?

A. No, that is not what I said. What I said was that I couldn't see, in the rates prescribed on stone in the Southern Governors case or any of these other commodities, prior to or subsequent to the Southern class rate case or the Eastern class rate case, a uniform principle which would determine that the freight rates were responsible for the showing there, for any showing made in those exhibits.

Q. Well, if that is true, then, why do you object to similar changes being made in other rates?

A. What rates are you talking about, now, that I objected — being made?

Q. Well, anything that moves on a class rate, we will say. When I say "similar changes," I mean rates from the South that are on the same level as those in the North.

A. Well, it all depends on what level you are talking about. If you are talking, first, on a higher level in the North than you have today, in order to equalize with the South, I think it would be destructive of industry in the North, particularly industry that moves or uses regulated transportation agencies, because the big fellows would all resort to their own transportation and the little fellows [fol. 3372] would be left holding the bag.

Q. I don't think you got my question.

A. I think I did.

Q. My question is that if you can't figure out that the reductions made as the result of the Governors commodity rate case resulted in any change in movement of traffic——

A. I didn't say that

Q. You didn't say that?

A. No, I didn't. I said it showed that Georgia increased and Alabama reduced, the Alabama tonnage was reduced, under the same set of freight rates, and I couldn't see anything in that to draw any conclusion from.

Q. Well, could you deduce from the figures which you compiled that the movement from the South had been increased or the movement in the North had been decreased?

A. No, I couldn't find it.

Q. You couldn't find it?

A. Let me say this, that I did try to find, in the short time that I had available to me, what effect the rates prescribed in the Southern Governors case had on other commodities. I couldn't find that. This is the only one I could find any statistics on, those commodities which were prescribed in the Southern Governors case.

Q. Therefore I ask you again, if you couldn't find that it had any definite effect on movement of traffic, why would [fol. 3373] you object to its being extended to other commodities?

A. I couldn't find out anything. All I could find out, people were so interested in the war they weren't in a

position to give any information out on the particular subject I was interested in.

Q. Well, what did you prepare these for, then? What do they purport to show? What is the reason for them?

A. All that they purport to show is that there isn't any uniform relationship to number of tons originated in a given area by freight rates alone.

Q. No, but you have predicated this on before and after the effective date of the rates prescribed in the Governors commodity rate case. Now, what do you show by it?

A. I don't show a thing. What I tried to show was the class rates did change the flow of the traffic, but I didn't find it and what I show is that they didn't do it.

Q. If you find they didn't do it, then why do you object to it being extended to other commodities?

A. Well, it goes back to what rates am I objecting to? If you will tell me what I am objecting to being extended to other commodities, I will tell you why.

Q. Well, you object to exactly the same thing being accorded to certain commodities that were accorded to other commodities in the Governors commodity case.

Chairman Aitchison: We are talking about the class [fol. 3374] rate scale. If he is applying the class rates, let's confine it to commodities which move on class rates.

By Mr. Norman:

Q. All right, we will confine it to that to the commodities that move on class rates or percentages of class rates. Why do you object to the same principle being applied there?

A. My first objection was that the thing I dread and the thing I think could be perpetrated on American industry, to its greatest danger, is to have from on high a uniform rate subject to a finding such as Finding 27 that doesn't take into account the economic conditions, the commercial conditions, the competitive conditions in this country, that it is the most harmful thing that could possibly happen to us. I think there isn't a practical traffic man in the country that wouldn't tell you the same thing.

Q. That still doesn't answer my question.

A. No, there are a great many more I can tell you, if you want me to.

Q. I want you to give me some. You have haven't given me any, yet.

A. The principal one I can give you, if you want a final answer to it, and the one I think goes directly to your position, and that is if you want to change the distribution of the transportation burden, you have got to do it wholeheartedly and you can't do it piecemeal.

Q. That still is no answer.

[fol. 3375] A. I think it is.

Q. Let me repeat my question once more, then. You say you can't find that the reductions made on the rates from the South to the North had any effect on movement of traffic?

A. No, I didn't.

Q. You didn't?

A. No, I didn't.

Q. All right, we will go back over that again.

A. I said I couldn't find any uniform effect; that when you revised the rates on stone in the Southern Governors case, Alabama had a decrease and Georgia had an increase, and I said I didn't understand how that could be attributable to freight rates. If you will tell me how it could be, maybe I will be better able to answer your question.

Q. You did say positively that you could not find that those reductions had resulted in any particular change in the trend of the traffic, didn't you?

A. I said in any uniform change.

Q. Well, all right. Can you demonstrate by those charts that you have presented here, that the industries in the North were in any way adversely affected by these reductions?

A. Oh, I could if I went to the same extreme that Mr. Spottswood did and talked up in the air and didn't talk practical effect, certainly, I could. I could point to the chart and show that after the Eastern class rate case [fol. 3376] decision was handed down by the Commission, there is a sharp decline in the tonnage and I should say that was due to what the Commission did in the Eastern class rate case. I could say that the Eastern class rate went into effect December 3, 1931, and we had a panic after that, or depression, and it was due to the class rates; but I don't believe it and I won't say it.

Q. You could say we had a war in 1914 but that would have nothing to do with what we are talking about, the Eastern class rates you are referring to, and nothing to do with my question.

A. Well, my exhibits show that. They are related to the Eastern class rates as well as they are to the Southern class rates.

Mr. McCollester: Mr. Chairman, I think perhaps I can avoid the necessity of further questioning along this line in this way: We have, of course, not presented our entire case to the Commission as yet. There are several arguments or grounds, as I see it, for the contentions on which the Southern and Southwestern interests are predicating their claim for a revision of the class rates to accomplish uniformity. One of them is that the industrial development of the South has been retarded. That we are trying to meet now by showing that that is not so. Now, if we eliminate that ground, there still remain other grounds upon which the Southern contentions are predicated, as we understand it, such as we assume the showing in [fol. 3377] Dr. Edwards' exhibits, and we will meet those if you will give us time, with our later testimony.

Mr. Norman: Now, Mr. Chairman, I submit that that has no bearing whatsoever upon the question that I have been asking this witness five or six different times, and couldn't possibly be in any way connected with that question.

Chairman Aitchison: I think he has given you two or three answers. You have questioned him on different matters and he has stated them.

Mr. Norman: Well, I don't think he has answered my question at all, Mr. Chairman, and he keeps changing his position about it. He keeps saying——

Chairman Aitchison: Well, he has different grounds and you have been questioning him as to the reasons and he has been giving one reason after another why he doesn't want to have it. He says he doesn't want to have a rigid class rate structure. That is the most important thing, he says.

Mr. Norman: I think that is true, but he first says that his charts—what I am trying to find out is what he shows by these charts. He first says it shows it didn't have any effect on the trend.

Chairman Aitchison: No, he didn't say that. I wrote it down there. He said he couldn't figure there was any parallel between the traffic and the changes in the class rates.

Mr. Norman: That is equivalent, I think, to saying that

[fol. 3378] the changes in the class rates didn't affect the flow of traffic.

Chairman Aitchison: No, he couldn't find, from a particular movement of those articles, corresponding with the changes in the rates, he couldn't find there was any necessary correlation.

By Mr. Norman:

Q. Was that the purpose of the charts?

A. That was the result of it. My purpose was to show the facts. I didn't know when I started those studies what they were going to show.

Chairman Aitchison: Now, gentlemen, it is a little past 3:30. Does anyone else have any more questions of Mr. Bauman? (No response.) You are excused, Mr. Bauman.

The Witness: Thank you, sir.

(Witness excused.)

Chairman Aitchison: We will take a recess now.

(Recess taken.)

Chairman Aitchison: Is that all you are going to put on, Mr. Bauman?

Mr. Bauman: Yes.

Mr. Seal: Mr. Chairman, before calling the next witness, I would like to make a very brief statement. In my absence, last week, Mr. McCollester stated that a committee had been formed to bring together the communities in the states comprising Trunk Line Territory and New England [fol. 3379] for the purpose of avoiding duplication of evidence and expense. On behalf of that committee, as its chairman, I merely wanted to confirm those statements by Mr. McCollester.

The next witness is Mr. W. S. Hamill. Will you please state your name and——

Chairman Aitchison: Wait a minute, what is his name?

Mr. Seal: Hamill.

Chairman Aitchison: Will you be sworn, please.

WILLIAM S. HAMILL was sworn and testified as follows:

Direct examination.

By Mr. Seal:

Q. Mr. Hamill, will you please state your full name and your employment at Baltimore.

A. William S. Hamill. I am employed by the Baltimore Association of Commerce and I am director of the Maryland Development Bureau and head of its business research department.

Q. What are some of your duties in those capacities?

A. Among my duties are the collection of various types of economic information on general business conditions in Baltimore City and the State of Maryland, including wholesaling and retailing.

Q. And how long have you been engaged in those duties at Baltimore?

A. Approximately 13 years.

Q. Have you made a special study and investigation in [fol. 3380] connection with this proceeding?

A. I have.

Q. Will you, then, proceed to identify and describe the exhibit which you have prepared as a result of that investigation.

A. This exhibit consists of ten pages and bears the title "Manufactured Articles Received by Representative Wholesale and Retail Establishments in Baltimore, Maryland, from the States of North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi and Louisiana."

Chairman Aitchison: It will be marked 162.

(Exhibit 162, Witness Hamill, marked for identification.)

Mr. Seal: With one addition, Mr. Chairman:

By Mr. Seal:

Q. Do you have an addition to make to that?

A. There is one addition, and that is to go in under T, on page 9, after Toys. It was inadvertently omitted in final reproduction. It is "truck clearance or marker lights," and the community is Charlotte, North Carolina, and the identification symbol in column 3 is K.

Q. Does this exhibit purport to show all of the articles received at Baltimore by these several concerns from the South?

A. No.

Mr. Seal: That completes the witness' statement, Mr. Chairman. I now offer this exhibit in evidence.

Chairman Aitchison: Without objection, it is received.

[fol. 3381] (Exhibit 162, Witness Hamill, received in evidence.)

Chairman Aitchison: Cross examine.

Cross-examination.

By Mr. Norman:

Q. Mr. Hamill, you don't mean to say that these articles are manufactured or produced at these various points of origin that you show, do you?

A. According to my investigation, these are the points from which these articles are shipped to the establishments indicated in the third column.

Q. Well, take for example, you have got silverware originating at Atlanta, Georgia. You know there isn't any silverware produced there, don't you?

A. Well, according to my information, silverware was shipped from there, and I believe, if I recall correctly, it was some sort of inexpensive odd pieces.

Q. Well, you don't mean that they are produced there, do you?

A. I couldn't say exactly whether they are produced there or not.

Q. In other words, they were just shipped from one Sears, Roebuck store to another, is that it?

A. I couldn't say whether that was true or not, sir.

Q. And the same thing is true of all these other commodities, you can't say they are produced at their various points of origin you show or not, can you?

[fol. 3382] A. Well, I couldn't testify directly to the fact that they were produced there, but these products are manufactured in the South, and from the information I have seen from certain shipping documents and trade names and shipping packages, I know that a great many of these articles did come from the South.

Q. No doubt they came from the South, but the question is whether they were manufactured or produced there.

A. Well, the presumption would be that they would be manufactured there. I could hardly conceive of them being shipped way south in the majority of the cases, and reshipped back to Baltimore establishments for resale.

Q. Do you know anything about the rates or the rate structure on which they moved?

A. No, sir, I am a statistician primarily and I am not familiar with the freight rate structure.

Mr. Norman: That is all.

Chairman Aitchison: Is there any further examination? (No response.) You are excused, Mr. Hamill.

(Witness excused.)

[fol. 3383] Chairman Aitchison: You may call the next witness, Mr. McCollester.

Mr. McCollester: Mr. Burton.

Chairman Aitchison: Raise your right hand and be sworn.

FREDERICK W. BURTON was sworn and as testified as follows:

Direct examination.

By Mr. McCollester:

Q. What is your full name, please, Mr. Burton?

A. Frederick W. Burton.

Q. You reside in Rochester, New York?

A. I do.

Q. What is your business connection?

A. I am manager of the Transportation Bureau of the Rochester Chamber of Commerce, a position I have occupied since 1919.

Q. Is it one of the functions of the Rochester Chamber of Commerce to keep informed as to the business being done in Rochester?

A. That is very true.

Q. Have you, for the purposes of this proceeding, made some investigation as to whether goods from the South, manufactured goods from the South are on sale in the

stores in Rochester and have you embodied the results of that investigation in an exhibit prepared by you?

A. I have.

[fol. 3384] Mr. McCollester: May that exhibit be marked as No. 163 for identification?

Chairman Aitchison: It may be so marked.

(Exhibit 163, Witness Burton, marked for identification.)

By Mr. McCollester:

Q. Did you attempt, or did you not attempt, Mr. Burton, to find all of the goods of the South that might be on sale in Rochester?

A. This is simply what information I could get together hurriedly. Having manpower problems in our organization and devoting a lot of our time to wartime and local problems, it cannot be considered a complete study of articles that are produced in the South or Southwest which are sold in Rochester.

Q. Just on the basis of a sampling investigation, you found all of these articles of Southern manufacture that you have listed in Exhibit No. 163?

A. Yes. That is very true. This information was brought together in the matter of a day or two.

Q. Have you also made some investigation as part of your work with the Chamber of Commerce as to whether industries in Rochester encounter the competition of Southern producers of similar goods?

A. Yes. In this effort we have made, we have found that some of our industries are encountering competition in the northern states with similar industries located in the South. Sheet No. 5 shows two of them. The Hickock Manu-
[fol. 3385] facturing Company manufactures belts, suspenders and garters in competition with a garter company at Madison, North Carolina, and also with the Texas Tanning & Manufacturing Company, manufacturers of leather belts at Yoakum, Texas. The Max Lowenthal & Sons Company of Rochester manufacture knit goods, sweaters, mittens and gloves. They have competition in northern states with manufacturers of similar outer garments located at a number of points in the South as specified on sheet 5. The points listed are not all of them.

Q. Here again you have not attempted to find the full extent by any means, have you, of competition encountered by Rochester industries?

A. No, I have not. I should have liked to have had time to disclose the real picture regarding the competition between our canners in western New York and canning industries located in the South. Our canners are finding competition in Northern states with canners located in the South, and that is confirmed by information which appears on sheet 4. Wegeman Food Markets, Inc., of Rochester and their various stores sell canned peaches that come from Jackson and Griffin, Georgia. Of course, canned citrus fruits are sold in all of their stores, canned citrus fruits from Florida. Hart's Food Stores, Inc., also have similar commodities on their shelves in their various food stores.

Q. Are fruits canned in Rochester or Western New York State?

[fol. 3386] A. Rochester is the center, or one of the prominent points of production of canned friuts and canned vegetables in Western New York.

Chairman Aitchison: Including citrus?

The Witness: There was a time when citrus fruits were brought into Rochester and canned there, but I do not believe they are any longer canned there.

By Mr. McCollester:

Q. In connection with the example of industries that once existed and no longer exist in Western New York, have you any information, or have you any facts in connection with paper mills?

A. I have been somewhat interested in finding out what really happened to several mills, paper mills, located in the vicinity of Rochester. I have canvassed the Rochester paper interests to confirm the information that I have, or had, in a general way. The Lawless Brothers Company, Lawless Brothers Paper Mills, Incorporated, to be exact, located at East Rochester, for a number of years owned a paper mill at Scottsville, New York. They operated the mill under the name of the Genessee Paper Mills, Incorporated. They manufactured paper from—I will say fibreboard paper from 1924 up to 1932. That is the paperboard that goes into the manufacture of paperboard shipping

containers. In 1932 it was closed down and the machinery was sold to the Certain-teed Products Corporation and shipped to Atlanta, Georgia. The principal reason given [fol. 3387] for the sale of the mill and the closing down of the mill was that the company no longer could produce economically in competition with Southern mills.

This company manufactures paperboard at East Rochester, New York—that is, the Lawless Brothers Paper Mills, Incorporated—paperboard made wholly of waste paper. It is seriously concerned with the competition of Southern mills. Kraft liner board can be produced more economically by the Southern mills than the jute liner board manufactured by Northern mills from waste paper. Southern liner board is made from Southern pine. All of this board is sold on the basis of thousand square feet. The Southern board made from the long fibre of the virgin tree makes a lighter weight sheet which complies with the required strength test, using the Mullen test. For this reason the Southern mill is able to produce board 25 per cent lighter in weight than the board made from waste paper. This allows 25 per cent more coverage in material in the protection of boxes.

There was another mill at Mumford, New York. Mumford is located about 22 miles south of Rochester. It closed out its business in 1939. The machinery and equipment was shipped to the Senoka Products Company at Rockingham, North Carolina, where it is now utilized for the manufacture of paper tubes for the textile mills. Another mill that moved out of up-state New York is the mill at [fol. 3388] Skaneateles, New York, just a short distance from Auburn, New York, which was owned by the Kieckhefer Paper Company. They discontinued operation in June, 1942. The mill was dismantled last August and the machinery was shipped to the South. I do not have the location, or rather, the destination of the machinery. It is one of the companies owned by the Eddy Paper Company of Chicago.

Q. But it is a plant in the South?

A. It moved to a plant in the South. That is correct.

Q. Now, was the Sterling Range Corporation making stoves at one time an important industry in Rochester?

A. For many years, up to the early 30's, the Sterling Range Corporation was very prominent in the manufacture

of stoves. They sold out, I think it was, in 1930 or 1932, to some interests located in Troy, New York. Later the assets of the company, including patterns and patents, were sold by the Troy interests to the Knoxville Stove Company at Knoxville, Tennessee. It is my information that while the stoves were manufactured in Rochester, they sold for $110 f. o. b. Rochester; and that when the Southern manufacturer took ahold of the production of the same type of stove, they were able to sell them for $79 apiece.

Chairman Aitchison: In Rochester?

The Witness: In Rochester, f. o. b. Rochester. In fact, I saw the stoves the other day in Edwards Store when I was getting the information which is recorded in this exhibit.

[fol. 3389] By Mr. McCollester:

Q. That occurred before the Interstate Commerce Commission in the Southern Governors Case had prescribed a parity of rates from the South to New York State on stoves?

A. Yes. That was long before the Southern Governors Commodity Rate Case.

Q. Is there anything further you want to state on direct examination, Mr. Burton?

A. Nothing further, except to state that these Southern producers are doing business in the North under the existing level of rates in competition with similar manufacturers and producers in the North and in the Rochester area.

Mr. McCollester: You may cross examine.

Chairman Aitchison: Do you offer your exhibit?

Mr. McCollester: Excuse me, Mr. Chairman. Thank you. I offer in evidence Exhibit No. 163.

Chairman Aitchison: Without objection it is received.

(Exhibit 163, Witness Burton, received in evidence.)

By Chairman Aitchison:

Q. Would it be fair to say from scanning your exhibit, that 90 per cent of the articles in it fall within two classes, furniture and articles made from cotton?

A. As far as the department stores are concerned?

Q. Yes.

[fol. 3390] A. That seemed to be the case, in getting the information hurriedly, Mr. Chairman. I would not deny that that was the case.

Q. For example——

A. There is a large volume of cotton goods that comes into the Northern markets.

Q. Take sheet 2, Edwards.

A. Yes.

Q. Except for the 4th item, candy from Miami, and the item of stoves from Knoxville and earthenware from Erwin, everything else there seems to be of cotton origin, does it not?

A. Yes. That is very true.

Q. Is this candy from Miami a specialty product?

A. I did not go into that particular item. A good bit of this information came to me by looking over freight bills and bills of lading. In some instances I went down and saw the goods on the counter, but I did not do that with the candy item. I did not have the time. I did look up washboards, foot stools, albums and sheets, cotton sheets and other cotton items.

Mr. McCollester: You will note, Mr. Chairman, in connection with your reference to the majority of these articles being cotton, or of cotton origin, while that is true, there are a considerable number of these articles which, although of cotton, nevertheless might be considered highly manufactured articles, such as cotton clothing, cotton pillow-[fol. 3391] cases, handkerchiefs and sports jackets.

Chairman Aitchison: You may cross examine. Mr. Bee.

Cross-examination.

By Mr. Bee:

Q. May I ask you to turn to page 2.

A. Yes.

Q. Do you know whether or not the archery equipment from Pine Bluff, Arkansas, is a specialty line?

A. Well, I found that in the sports goods department of the store.

Q. Was it a very high speciality line?

A. I do not know how much of a specialty line it is. It is the targets and bows that are used in archery.

Q. Did both the targets and bows come from down there?

A. Yes.

Q. Or just the bows and arrows?

A. No. The target was very prominent in the display.

Q. Do you know the volume of the total sale of archery goods sold by that concern coming from Pine Bluff, Arkansas?

A. No, I do not.

Q. May I ask that you look at the last item on that page, glass tumblers from Sapulpa, Oklahoma. Do you know whether those were decorated with figures on them, or was it a common tumbler?

A. They were common tumblers.

Q. Did you ascertain——

[fol. 3392] A. They were in paperboard cartons. I saw a pile of them in the stockroom.

Q. Did you ascertain the volume of the sales?

A. No.

Q. As compared with other tumblers?

A. No. I did not ask that.

Q. There is one other item on there, belts.

A. Yes.

Q. Did you look over the sales of the Hickock Belt Company to find out whether or not they sold in every state in the Union?

A. No.

Q. Well, do you not know that——

A. But I think that is their distribution.

Q. Did you notice whether or not the Texas Tanning & Manufacturing Company of Yoakum, Texas—did you notice what kind of belts they had, or did you find out what volume they sold there?

A. I did not go beyond ascertaining the fact that these people had met competition from the Texas Tanning & Manufacturing Company.

Q. In other words, if you found a concern in Texas that sold one order anywhere in the territory, you considered that competition, is that it?

A. Well, I also found this, that the competition they meet is in the sale by the Texas Company to such stores as [fol. 3393] Penney's and Grant's, as I recall it.

Q. Did you find the volume——

A. No.

Q. —compared to what the Hickock people move?

A. No. I did not go into that.

Q. Do you happen to know whether or not those belts move on class rates?

A. They move on class rates from Rochester.

Q. Do you know the class rates from Yoakum, Texas, to points such as Buffalo——

A. No.

Q. —as compared to the rates from the Hickock plant to Central Freight Association Territory?

A. No. I would not know.

Q. Would you think there could be much competition between those companies on volume sales?

A. I suppose there could be competition on the basis of price.

Q. On the basis of price?

A. Yes.

Q. But there could not be competition——

A. Price that would absorb the freight cost, or a difference in the freight cost.

Q. Did you look into the belt that the Texas people sold to see whether or not they were doing that?

A. No.

[fol. 3394] Mr. Bee: That is all.

The Witness: I wish I had had time.

Chairman Aitchison: Are there any other questions on cross examination? (No response.) Have you anything further, Mr. McCollester?

Mr. McCollester: That is all, Mr. Chairman.

Chairman Aitchison: You are excused.

(Witness excused.)

Chairman Aitchison: You may call your next witness.

Mr. McCollester: Mr. Bell. Mr. Chairman, I would like to have identified at this time the five exhibits which have been distributed and which will be testified to by Mr. Bell during the course of his testimony. The first one is the smaller buff colored exhibit of 18 pages with the caption on the cover, "Comparisons of Rates in Official and Southern Territories on raw material and low grade commodities moving in volume."

Chairman Aitchison: It may be marked for identification as Exhibit 164.

(Exhibit 164, Witness Bell, marked for identification.)

Mr. McCollester: The next exhibit which will be marked is a larger buff colored exhibit bearing the caption on the cover page, "Distribution of the transportation burden by railroad in 1939."

Chairman Aitchison: It may be marked for identifica- [fol. 3395] tion as Exhibit No. 165.

(Exhibit 165, Witness Bell, marked for identification.)

Mr. McCollester: The next exhibit to be marked is a smaller buff colored exhibit with the caption "An exhibit relating to freight operating expenses in Official and Southern Territories."

Chairman Aitchison: It may be marked for identification as Exhibit No. 166.

(Exhibit 166, Witness Bell, marked for identification.)

Mr. McCollester: The next exhibit, which will be marked No. 167, is the largest exhibit with the caption, "An analysis of the classification ratings shown in Consolidated Freight Classification No. 15."

Chairman Aitchison: It may be so marked.

(Exhibit 167, Witness Bell, marked for identification.)

Mr. McCollester: The last exhibit which we ask to have marked as No. 168 for identification, is the two page white exhibit with the caption "Statement showing effect of application of Official Classification Ratings," and so forth.

Chairman Aitchison: It may be marked for identification as Exhibit No. 168.

(Exhibit 168, Witness Bell, marked for identification.)

Mr. McCollester: Exhibit No. 167 was distributed at Indianapolis. That is the classification analysis.

Chairman Aitchison: Raise your right hand and be sworn, [fol. 3396] please, Mr. Bell.

CHARLES E. BELL was sworn and testified as follows:

Direct examination.

By Mr. McCollester:

Q. Will you state for the record, please, Mr. Bell, your full name and where you reside.

A. Charles E. Bell, Washington, D. C.

Q. Will you briefly outline your experience in the field of transportation.

Chairman Aitchison: I think everybody will concede it is ample.

Mr. McCollester: Very well. Let me ask you one thing, then, Mr. Bell:

By Mr. McCollester:

Q. Have you had considerable experience in transportation in Southern Territory?

A. I entered the service of the Southern Railway in 1895 and I have occupied different positions in the transportation and traffic department, mostly in the traffic department, until 1920.

Q. Since that time has your experience called for investigation by you and for your keeping yourself familiar with the transportation conditions, with the development of rate structures and other matters pertaining to railroad traffic in both Official and Southern Territories?

A. It has.

[fol. 3397] Q. Based upon your experience, Mr. Bell, what have you to say as to which comes first, the freight rate structure or the location of industry——

A. Generally speaking——

Q. —in the industrial development of any particular section of the country?

A. Generally speaking the view is unsound that rates have been made or rate structure developed throughout the country first, and that industry has adjusted itself thereto. On the contrary, rates were made in the light of the requirements of actual industrial conditions and needs. The territorial basis of rates is not an arbitrary one or artificial one, but is the result of natural causes which, to a considerable extent, still exist.

Q. Will you outline some of those causes responsible for the territorial rate structure.

A. In the beginning the railroads were small units. Each railroad made its rates to meet its own conditions and requirements. Generally speaking this situation continued to exist until a few years before the turn of the century. In the course of time, through consolidations and mergers, the major systems of today came into being. As this develop-

ment took place, rate making for each system had to be conducted from the standpoint of the system as a whole.

Now, as different systems were developed in the several [fol. 3398] territories, competition became an increasingly important factor. Almost every large center was served by more than one railroad. This led to the creation of railroad organizations for cooperative rate making. Now, with a few exceptions, railroad systems did not extend beyond the boundaries of the rate territories as they now exist, and that is still the present situation.

Speaking roughly, the boundaries of the three general rate territories, Official, Southern and Western, are defined by the termini of the major systems serving each territory. For example, in Official Territory there are four large systems, the New York Central, the Pennsylvania, the Baltimore & Ohio and the Erie Railroad, all of which extend from the Atlantic seaboard to the Mississippi River except the Erie which terminates at Chicago, and the same systems extend southward to one or more of the Ohio River gateways.

Now, the situation I have just described is of controlling importance in rate making. In the case of a single railroad, it is possible to offset losses on one portion of the line where freight rates are not there commensurate with the services, by reason of more profitable freight rates on other portions of the system. The money goes into a common treasury from which all expenses are paid. However, no losses incurred by a railroad in one territory can be offset by the profits of another railroad in another territory, because the [fol. 3399] different railroads or systems are separate and distinct corporate entities.

An effort was made, as you all know, through the passage of the transportation act of 1920, through the recapture provision, to recapture excess earnings from strong lines to be used for the benefit of the weaker lines. That did not work out, and the Recapture Law has been repealed for some years. An adjustment of the revenues through the medium of divisions is possible only with respect to the limited amount of traffic which moves interterritorially, from one railroad to another. The great preponderance of traffic originated in each territory terminates in the same territory. The necessary consequence of this situation is that rates in each territory must be on a basis to meet the requirements of the railroads in that territory. Unless

and until the railroads in the United States are operated as a single entity, or at least merged and consolidated into systems extending throughout the several Territories, there is a practical necessity for territorial rate making and the boundaries between the territories, instead of their being artificial and outmoded as has been suggested.

Since the rate structures of the country grew up for the reasons I have indicated, the rate structure in each territory was developed in the light of the conditions in that territory. Official Territory did not become industrialized [fol. 3400] because of the railroad freight rate structures. Rates in that territory were constructed as they were in the light of the fact that Official Territory was already industrialized and was a territory where the population was centralized in the town and cities. That territory began to develop as an industrial region long before the railroads came into being, by reason of the existence of raw materials necessary for industrial production, the existence of water power, climatic conditions, and characteristics of the settlers of that region, together with water transportation on the Atlantic Seaboard, the Great Lakes, the Ohio and Hudson Rivers and other inland waterways. The Erie Canal had opened up a route between the Atlantic Seaboard and the Great Lakes in 1825. That was long before the beginning of railroad construction, but since the railroads have been built in that section, there has been keen competition between the railroads and these waterways.

Q. Now, Mr. Bell, in the light of your testimony that the freight rate structure in Official Territory was predicated on the fact that Official Territory was already an industrial region when the railroads began to develop, what can you say, based upon your experience with the Southern railroads as to the industrial development of the South?

A. Long before the Civil War—of course, I do not claim my recollection goes back that far—the South was almost [fol. 3401] wholly an agricultural region. The production in Virginia and eastern North Carolina consisted mainly of tobacco, and I may say that that was true of Kentucky, except that Kentucky also depended very largely on the distilling of whiskey. As to all the other states except Florida——

Chairman Aitchison: Pardon me.

The Witness: Yes.

Chairman Aitchison: That is not quite as bad as it seems.

By Chairman Aitchison:

Q. Were not those two commodities where there was a very high value and a very small bulk and a comparatively light weight?

A. Your tobacco was, of course, of small bulk when it was manufactured. It is large and bulky in the leaf form when it is shipped in hogsheads and tierces to go into the manufacturing points.

Q. Do you refer to it as volume of movement? I am just endeavoring to find out why they turned to those particular commodities. It was because, was it not, they were very favorable for transportation in the primitive state?

A. It is an historical fact, Mr. Chairman, as I think you know, that the early settlers of Virginia started the production of tobacco and at one time tobacco was used instead of money, being part of the monetary system. Eastern North Carolina which was also settled shortly after Virginia, is an admirable, in fact I suppose about the best [fol. 3402] suited place in the country for the production of these light leaf tobaccos. In the early history of our country, tobacco formed the chief agricultural production in Virginia and North Carolina. When Kentucky was opened up the Burley tobaccos became quite a factor, and also they had no such thing as prohibition or anything of that kind, and Kentucky became noted for its whiskey production.

Chairman Aitchison: Very well. Proceed.

The Witness: Now, with respect to the other part of the South, except Florida, the production consisted principally of cotton. It will be remembered that before the Civil War, the southern states were slave states and labor used in production was principally slave labor. Little or no effort had been made toward industrial development, and after the Civil War the South was left flat, financially and economically. For many years after the war, the only money crop was cotton and in a lesser degree tobacco, although before and after the war, corn was grown in abundance, but practically all of it was consumed in the sections where it was grown. Literally, cotton was king and the prosperity of the South was dependent upon the production of cotton and the demand for it abroad and in the New England States where practically all of it was consumed, the major part being exported.

The South was also rich in timber resources which were developed without regard to forest conservation. There [fol. 3403] were immense forests of long leaf yellow pine particularly in South Georgia and Alabama and hardwoods in the Mississippi Delta and in Western North Carolina and in Tennessee. This timber was converted into merchantable shape and was largely shipped to the populous sections of the North. Railroads were being rapidly developed and practically all of the car manufacturing plants were located north of the Ohio River. Steel car construction was unknown. Tremendous quantities of Southern timber were shipped to these plants for car sills, frames and superstructures. The use of cement and structural steel for building purposes was a later development, and Southern timber was used in large quantities for all kinds of building construction.

To deal with one or two more items, the fringe along the South Atlantic Coast produced great quantities of naval stories, which is not in the same demand now as then. There were also industries which engaged in the production of billets made of hardwood for implement handles, tool handles and gunstocks. One industry I recall in particular in Western North Carolina and East Tennessee, which was quite a heavy industry at one time, was the production of insulator pins for telegraph, insulator pins and cross-arms. These have long ago been supplanted by the steel articles.

The industrialization of the South really commenced in the late 80's and early 90's, and I maintain that the rail- [fol. 3404] roads of the South were mainly responsbile for that industrialization. Further, in my opinion, the principal credit is due to Samuel Spencer the first president of the Southern Railway, and prior to that time president of the old Richmond and Danville Railroad. The Richmond and Danville Railroad extended South from Washington, D. C., through Virginia, through North Carolina, with branches extending out into the western part of the State all through South Carolina down into Georgia, to Atlanta; and by its lease of the old Georgia Pacific Railroad, it extended through the Birmingham district as far west as Greenville, Mississippi. In 1894 the Richmond and Danville was merged with the old East Tennessee, Virginia and Georgia Railroad, whose line extended from Bristol,

Tennessee, via Knoxville, Chattanooga, Rome, Atlanta and Macon to Brunswick, Georgia; also a line from Rome to Selma, Alabama. Those two railroads formed the nucleus of the Southern Railway System which has very greatly expanded since 1894.

I have already referred to the manner in which numerous independent railway units were merged into systems. The Southern Railway was the first system of this kind in the South. The present Atlantic Coast Line System and the Seaboard Air Line reflect similar mergers and consolidations which were made a few years later. Mr Spencer was a man of broad vision who realized that the future of his [fol. 3405] railroad and the whole South, in fact, was very largely dependent upon the development of the resources of the South. He had established on the Richmond and Danville Railroad a land and industrial department which was greatly augmented and increased after the merger of that line into the Southern Railway. The sole purpose of that department was to develop the resources of the South and particularly so that the raw materials of the South might be converted into manufactured products.

As I said in qualifying, I entered the service of the Southern Railway in 1895. I continued in that service until 1920 except that in the latter part of 1917 until the end of Federal control in 1920 I was furloughed to serve as Assistant Transportation Director of the United States Food Administration, and later as Assistant to the Director of Traffic, United States Railroad Administration. Therefore I am personally familiar with the successful efforts of the land and industrial department of the Southern Railway to locate industries in the South for the purpose of converting raw materials into manufactured products and with the activities of the traffic department to establish rates for that accomplishment. With the organization of the Atlantic Coast Line System and the Seaboard Air Line, these systems were also active in this direction and other railroads in the South were awakened to take like action. [fol. 3406] Now, I would like to briefly mention some of the more important industries. Prior to the turn of the century, the great bulk of the cotton crop of the South was exported or shipped to New England to be manufactured. One of the first efforts of the Richmond and Danville and its successor, the Southern Railway, was to induce the construction of cotton mills in the Southern states in

the middle of the cotton-field, so to speak, where cheap labor was plentiful and ideal climatic conditions existed. The traffic department encouraged the effort by the establishment of low rates on cotton and also established warehousing or in-transit arrangements at central points in the mill section, in order that the mills might always have a plentiful supply of cotton of the grades necessary for their production. In 1900, 86 per cent of the commercial cotton crop of the South was exported or shipped to northern mills and 14 per cent was taken by the southern mills. In 1904, 79 per cent of the commercial crop was taken by the southern mills and 21 per cent by the northern mills or exported, and I may mention, incidentally, that one-third of this 21 percent was taken by the northern mills and the other was exported.

The establishment of mills for knitting hosiery and other knit goods followed in the wake of the development of the cotton mill industry, and today the South occupies a dominant position in that field. A large number of the plants [fol. 3407] operating in Pennsylvania and other Eastern states were moved to the South. The manufacture of cotton clothing also came into being in the South and developed into quite an industry.

Chairman Aitchison: Mr. Bell, If I have followed you so far, all of these manufacturing developments have centered around cotton.

The Witness: So far, but I am not going to stick to cotton.

Chairman Aitchison: I just wanted to check on that.

The Witness: Yes. Cotton, and products of cotton; you are correct.

Chairman Aitchison: Proceed.

The Witness: As I have said, in the early days, Virginia and North Carolina were pre-eminent tobacco growing states and the production increased and the manufacture of tobacco increased to an amazing extent. That is evidenced by the tremendous cigarette factories at Durham and Winston-Salem. One of the most marked developments of the South was the development and continued increase of the manufacture of furniture which is now shipped to all parts of the country. In the early part of that development, in 1900, I was chief clerk to the Division Freight Agent for the Southern Railway at Raleigh, North

Carolina, and our office, I think, had a great deal to do with the establishment and development of the furniture industry in North Carolina which extended to other railroads [fol. 3408] and throughout other sections of the South, including particularly Georgia and Tennessee.

The manufacture of paper and pulp has also been an outstanding development, particularly the kraft papers made from second growth pine timber. Except that it would burden the record, I would like to tell the story of the paper industry in the South beginning with the pulp mill at Canton, North Carolina. They manufactured pulp to ship to the owner of the mill at Hamilton, Ohio. Then they developed the pulp mill at Canton into a paper mill which today is one of the largest in the country. But that is a story in itself.

In the early days the crushing of cotton seed oil was quite an industry and became increasingly so. Practically all of the crude oil was shipped to northern converting plants in the beginning, but commencing as far back as 1900, or before the cotton seed oil refineries were established in the South, some of them were making the highest grades of cooking oils and lard compounds. I recall particularly the large refinery of the Southern Cotton Oil Company at Savannah, Georgia, when I was commercial agent at that point 40 years ago. The plant made the lard compound known as Snowdrift, known all over the country. They also produced Wesson cooking oil. In fact, the Southern Cotton Oil Company had a patent for the production of Wesson oil which also became known all over the country. Refineries were also established at Charlotte, [fol. 3409] North Carolina, Macon, Georgia, Norfolk, Virginia, Memphis, Tennessee, New Orleans, Louisiana, and various other points. It cannot truthfully be said that the cotton seed oil of the South is not manufactured into the high grade products within the South. Those are simply some of the industries, Mr. McCollester, which have been developed within the range of my knowledge and there are many others.

By Mr. McCollester:

Q. Mr. Bell, in connection with the development of those industries, for example in connection with the textile industry, you referred to the effort of the traffic department

of the Southern Railway to encourage that development by its rate policy.

A. Yes.

Q. Was that a policy of establishing low rates on inbound raw materials of the South to the manufacturing centers in the South to use to convert those raw materials?

A. That was a policy not only with regard to cotton, Mr. McCollester, but with regard to raw materials going into the manufacture of other commodities, particularly furniture.

Q. That subject of the lower rates on the raw materials is one you will take up further later on?

A. I will take that up in more detail later on.

Q. Now, will you describe briefly the general character of the rate structures of the two territories, North and South, dealing with the North first.

[fol. 3410] A. There is one thing I would like to add in connection with what I have just said, Mr. McCollester, and that is that based upon personal experience as well as knowledge, I would say that it has always been the policy of the Southern railroads to make rates which will develop and encourage industry, and this is true in other territories also.

Chairman Aitchison: Well, one of the contraverted questions here is whether or not in doing that, they have always had the cooperation of the Official lines.

The Witness: I am sorry, Mr. Chairman, but I could not hear your remark.

Chairman Aitchison: The reporter will read it.

(Record read.)

The Witness: I am speaking now particularly as to the development of the rates within territories, and particularly Southern territories. I do know that it has been the policy of the Southern lines to try to establish rates which will put their industries in competition in Official Territory, as well as in other territories. As to the question of the attitude of the Official lines, Mr. Chairman, they have received a marked degree of cooperation in the establishment of some of those rates. Some of them I cannot answer for. However, I shall touch upon that, I hope, a little bit later and show you that in addition to the control by the Illinois Central, the one line with north and south connections, that

[fol. 3411] the Southern lines had other ways of controlling the rate structure through the ownership of steamship lines extending to the North Atlantic Seaboard.

By Mr. McCollester:

Q. Before, in your testimony about the policy of the Southern railroads with respect to rates to develop industry, you had reference, as I understand it, primarily to the rates on the inbound raw materials within the South?

A. No. I had reference to the rates on inbound raw materials and then too, rates on outbound raw materials—or rather, the outbound finished products. Of course in the early days of railroading, Mr. McCollester, it was perfectly lawful to establish extremely low rates on the inbound materials, and it was not so necessary to establish rates on the outbound finished materials. But the prime policy then was to establish the rates on inbound raw materials so as to get the factories to develop, and the industries to develop.

Q. Will you describe in a general way the difference between the rate structures in the Official and Southern Territories.

A. These rate structures in the different territories differ greatly due to the differences in the character of the traffic, competitive forces and other circumstances and conditions surrounding marketing and transportation. From the beginning of the development of the railroads in Official Territory, a large volume of traffic both of high grade and of [fol. 3412] comparatively low grade have moved on class rates or on rates premised on class rates.

Q. In that connection, Mr. Bell, Chairman Aitchison, if I understood him correctly, remarked the other day that he had been brought up on the idea that the commodity rates were the important rates that moved the traffic, and that the class rates were for the—I do not know whether he said "occasional movement", but something of that sort; is that the situation in Official Territory?

A. No, sir. I did not hear the Chairman say that, but I am quite sure he is burdened with so many things and a multitude of so many other duties, that he overlooked what was said in the Eastern Class Rate Investigation——

Chairman Aitchison: I was talking particularly about the territory where I was brought up which, I regret to say, in some ways was not Official Territory.

The Witness: In the Eastern Class Rate Investigation—I was going to relate this anyhow—164 I. C. C. 314, 319, the Commission found that the class rates in Official Territory differ materially from those in other territories of the country; that they are much lower in level with the exception of certain rates in Western Trunk Line Territory which approached them in level; that they also apply generally speaking to a much wider range of traffic. It was there stated that in other territories commodity rates [fol. 3413] have generally been provided for carload traffic of any important volume; that this is not the situation in Official Territory where a great deal of the more important carload traffic moves on class rates; that of the traffic embraced by the revenue test in the proceeding, about 68 per cent was carload, and I may say that the revenue test was with respect to class traffic and not commodity traffic; and furthermore, that as compared with the class rates, the commodity rates on heavy low-grade articles in Official Territory are often relatively high and in other territories relatively low. Those statements are in conformity with my own knowledge and studies of the rates in Official Territory extending practically throughout my 40 odd years of railroad experience.

An important thing to bear in mind in this connection is that the lower level of freight rates on manufactured products in Official Territory has been due to several factors, namely, the great industrial development, and as a consequence, a large volume of manufactured products; the different rate policies of the Northern railroads from those in the South, and other territories; and the effect of water competition. The rate structure in Official territory today reflects those influences. In addition to steamer lines plying between the ports on the North Atlantic Seaboard, innumerable vessels of different types plied between the points on the Atlantic Coast, sailing vessels as [fol. 3414] well as steam vessels and barges for the cheaper kinds of traffic. Not only were the port cities able to avail themselves of that water competition, but points in fairly close proximity to the coast could do so as well.

The Hudson River has always formed a great artery of transportation for traffic in Northern and Eastern New York, emptying as it does into the harbor of the greatest port of the United States. The Erie Canal built by the State of New York from Buffalo to New York City, completed in 1825 was constructed for the purpose of providing a through water route between the East and West and to serve the section of New York State which it traverses. It would seem superfluous to call attention to the part the Great Lakes have played in the transportation activities on the country, connecting as they do the lower lake ports and their hinterland and the ports of the Upper Lakes and their hinterland, and with the Erie Canal, forming an all-water route to the Eastern Seaboard. There is also the St. Lawrence River route from Lake Ontario. The Welland Canal connecting Lake Erie and Lake Ontario was not opened until 1932. The Mississippi River has been navigable from the earliest date, certainly as far north as St. Louis, but the Chicago River Canal connecting Lake Michigan and the Mississippi River was not completed until March, 1933.

Chairman Aitchison: When did you say the Welland [fol. 3415] Canal was completed?

The Witness: The Welland Canal?

Chairman Aitchison: Yes.

The Witness: March, 1933, according to my——

Chairman Aitchison: That is a rebuilt canal, is it not?

The Witness: A what canal?

Chairman Aitchison: A rebuilt canal.

The Witness: It is a rebuilt canal, yes.

Chairman Aitchison: The Welland Canal has been there for a long, long time.

The Witness: Yes. That is correct. The Welland Canal has been there for a long time, but I had in mind opening up the canal for deep sea vessels, between Lake Ontario and Lake Erie. Now, in the C.F.A. class rate scale case, 45 I. C. C. 254, decided June 29, 1917, reference was made to the fact that the revision included not only class rates, but also commodity rates, if I may quote, "which for the most part are those that are based upon definite percentages of definite class rates."

Chairman Aitchison: At the Disque scale?

The Witness: The C. F. A. class rate scale.

Chairman Aitchison: 46 I. C. C.?

Mr. McCollester: 45 I. C. C.

Chairman Aitchison: Yes. 45 I. C. C.

The Witness: 45 I. C. C., 254. Appendix 1 to the report in that case lists 74 commodities which at that time were [fol. 3416] accorded percentages of class rates ranging from 146 per cent of 4th class down to 75 per cent of 6th class. The situation in Trunk Line Territory was somewhat different; although a large volume of traffic moved on class rates and multiples thereof, a large number of specific commodity rates were published. The interterritorial class rates between Trunk Line and C.-F. A. Territory which extended to New England also, were based on the old so-called McGraham formula which remained in effect until the rates resulting from the Eastern Class Rate Case, 164 I. C. C. 314 were published, and the rates on the McGraham formula moved a heavy volume of traffic.

Appendix D to the report in the Eastern Class Rate Case consists of a table showing percentages of tonnage and revenue of the various classes and multiples thereof in different sections of Official Territory and interterritorially, based on the revenue studies made by the carriers in 1925. Illustrating, with 5th class, the table shows that within and between the respective portion of Official Territory, 5th class tonnage ranged from 32.2 per cent to 36.8 per cent, and the revenue from 15.1 per cent to 26.7 per cent. Many of the articles included in 5th class have since been placed on the column basis, such as canned goods, packinghouse products, machinery and machines, green salted hides, dried hides, tanning extracts, paper and paper articles, sugar and so forth; but at the time of the Eastern Class [fol. 3417] Rate case, most of the tremendous tonnage moved at 5th class was iron and steel articles rated 5th class in the Official Classification. The general revision of the class rates in Central Freight Association Territory was made as a result of the C. F. A. class rate scale case which I have cited. There was a revision in New England class rates as a result of the Commission's decision in 49 I. C. C. 421, decided April 16, 1918, but the old scales of class rates within Trunk Line Territory, in which, at that time, large groupings prevailed, were not revised until after the decision in the Eastern class rate case, nor was any general revision of the interterritorial rates which

had been based on the McGraham formula, made until after the decision in that case.

By Mr. McCollester:

Q. Mr. Bell, with respect to the development of the Southern rate structure, what have you to say?

A. From the earliest days up to the Commission's decision in the Southern class rate case, Docket 13494, comparatively little traffic other than that which may be termed high-grade merchandise was handled on class rates. Even that traffic was sparse, except the part of it which was distributed locally from the major trade centers by jobbers and wholesalers. The great preponderance of this merchandise moved from territory without the South to the jobbing and wholesale centers in the South and the preponderance [fol. 3418] of it moved on commodity rates to those centers. On traffic moving in any volume within the South it was the policy of the Southern railroads to establish commodity rates or exceptions to the classification. On many commodities moving in appreciable volume, lettered classes were employed which were considered in the nature of commodity rates, class A applying on cotton ties and cotton bagging; class B on cured meats and other packinghouse products moving, for the most part, from packinghouse products plants in the Middle West; class C, applying on flour in sacks; class F applying on flour in barrels; class D applying on grain products other than flour, also hay and straw; class E applying on beer; and class H on whiskey in barrels. Long before the Southern Class Rate Investigation, classes E, F and H were eliminated from the Classification and numbered classes substituted.

Under the Interstate Commerce Act of 1887 there was no requirement for the observance of the long-and-short haul provision of the 4th Section when circumstances and conditions were substantially dissimilar. There was little or no observance between, or to and from points in the South. The basing point system was employed for making class rates, not only the lettered classes, but to a large extent for the construction of commodity rates. The rates within the South were by no means uniform. Southern state commissions had prescribed varying rates for intra- [fol. 3419] state application governed by state classifica-

tions or state made exceptions. These state commissions prescribed lower classes in the form of mileage scales for the movement of the heavy low-grade commodities as well as some commodities of the higher grades. Class P applied on lumber, M applied on fertilizer and O on lime, and so forth. In addition the state commissions prescribed low mileage scales on many other commodities. These lettered classes on commodities were prescribed for the most part before the consolidation into the present large systems of the innumerable independent railroads.

Now, these independent railroads served different ports. For example, the Central of Georgia served Savannah. The old plant system which later became part of the Atlantic Coast Line served Charleston, Savannah and Jacksonville. The Georgia, Southern & Florida, which is part of the Southern Railway System, served Jacksonville. The East Tennessee, Virginia and Georgia which I have mentioned, served Brunswick. The South Carolina and Georgia Railroad which is also part of the Southern Railway System, now forming a route in connection with the Georgia Railroad east of Augusta, served Charleston. The Atlantic Coast Line and Seaboard Air Line at that time served Wilmington. The Charleston & Western Carolina, an independent railroad, served Port Royal, — Carolina. All of these ports were in keen competition.

It was customary to establish the same rates between all [fol. 3420] of the South Atlantic ports on the one hand and interior Southern points on the other, Southeastern points, on the other, including lower lettered classes and scales prescribed by the various state commissions. For the sake of illustration, the rates from Brunswick to Atlanta, which had been made over the line of the old East Tennessee Railroad, the short line, became the measure of the interstate rates from all other South Atlantic ports to Atlanta. Similarly, the intrastate rates prescribed by the Alabama Commission between Mobile and Birmingham and other Alabama points became the measure of the interstate rates between the ports of Pensacola and New Orleans. It was customary for the Southern railroads to establish commodity rates where there was any substantial volume of traffic, or to make exceptions to the classification. The South was literally honeycombed with all kinds of rates of this character, carload and less than carload. Commodity

rates were likewise established on various commodities from the South to Official Territory and from that territory to the South. Most of these did not have general application, but were published from the point or points at which the traffic originated to the specific point or points in the respective territories where it terminated, frequently on different levels on the same commodity to different destinations.

Now, coming to the question that you asked a moment ago, [fol. 3421] Mr. McCollester, it was an important policy of the Southern railroads to make low commodity rates on inbound commodities on which they might secure the outbound hauls of the finished or processed products. This was especially true of rates on logs and billets for the manufacture of furniture, veneer, vehicles and vehicle material, handles and so forth; also on iron ore, coal, limestone and pulpwood, but the rates were by no means uniform on the same commodities, or even on the same railroads. Many of them were published—in fact, most of them were published with a provision as to the use to which the commodity must be put, and provided that the outbound products must be shipped out over the inbound line.

After the passage of the Hepburn Act in 1905 prohibiting the making of rates for particular purposes, these provisions were deleted from the tariffs. The situation I have described was that existing when the Elkins Act was passed in 1910 requiring the observance——

Chairman Aitchison: The Elkins Act was passed in 1903.

The Witness: That is correct, Mr. Chairman. Pardon me. I mean to say, the Mann Elkins Act, pertaining to the long-and-short haul clause.

Chairman Aitchison: I thought that is what you meant.

The Witness: Thank you for the correction. The Mann-Elkins Act was passed in 1910, requiring the observance of the long-and-short haul provision, except to meet water [fol. 3422] competition. I might say that these old low inbound rates are still reflected in the structures, for instance, on the log structure within the South.

Mr. Norman: Mr. Chairman, apparently the witness is reading this testimony. It has not been distributed. If it had been distributed in the regular way, it might have been copied in, and we could have saved all of this time.

The Witness: The Witness is not reading. He is coming in here, interpolating, and these are simply notes for his own guidance, Mr. Norman.

Mr. Norman: I have been watching you read for the last five minutes now.

The Witness: Watch me for the next five minutes.

Mr. Norman: That was the requirement made of all the rest of us, that prepared testimony was to be distributed to the other parties in advance of its presentation.

Chairman Aitchison: Proceed.

The Witness: As a result of the Mann-Elkins Bill and the investigation by the Commission in Fourth Section Violations in the South—come over here and see if I am reading, Mr. Norman.

Mr. Norman: All right.

The Witness: (Continuing) —the carriers undertoook to make a revision of the rates in the South. That work had progressed when the 1920 Transportation Act was [fol. 3423] passed making more rigid the provision of the Fourth Section including the addition of the equi-distant clause. A leveling process was necessary to obtain uniformity under the provisions of the Act. There carriers undertook to follow the provisions of the Southern Class Rate Investigation in which classes 7 to 10 were substituted for the lettered classes, A, B, C and D and class 11 and 12 added; also, a uniform percentage relationship of classes was prescribed.

I might say here that the Commission adopted the percentage relationship proposed by the Southern Traffic League—that is shown of record in the Class Rate Case—and the chief proponent of that percentage relationship was Mr. Harry T. Moore, Manager of the Atlanta Freight Bureau, Mr. Hart's predecessor. I have heard Mr. Moore express himself as believing that the adoption of this percentage relationship was one of the major accomplishments of the Southern lines in the 13494 proceeding, although Mr. Hart now criticizes it very severely.

In making the revision necessitated by the decision in the Class Rate Investigation, the carriers followed to a large extent the suggestion of the Commission that the lower numbered classes, from 7 to 12, be used as a substitute for certain commodities and exceptions to the classification. On commodities, generally speaking, on which the mileage scales were not applicable, the so-called

column plan of publication was followed, determination [fol. 3424] being made on the percentage of first class rates appropriate for given commodities and were published under the heading of the percentage figures so determined. Mr. Hart has criticized this method very severely, but with the necessity of Fourth Section observance, it seems to me that it cannot possibly make any difference whether the rates are published as specific commodity rates or whether they are designated as column rates, so long as the measure of the rates themselves are not affected. The result is bound to be the same.

The class rate adjustment and on many commodities as well, between the major portion of the South and the East and New England states, were controlled by the rail and water routes comprised of the rail lines to the North Atlantic ports and the coast-wise steamer lines plying between the Southern ports and the Virginia, South Atlantic and Gulf ports. The rates from the Eastern port cities were absolutely so controlled. By the absorption of the local rates of the Eastern lines between the North Atlantic ports and Eastern and New England ports the rates from the interior East were dominated by the water and rail routes in that territory, as far as the Buffalo and Pittsburgh districts. I think it is well to state here that the Central of Georgia Railway owned the Ocean Steamship Company plying between New York and Boston on the one hand and Savannah on the other. The Seaboard [fol. 3425] Air Line owned the Bay Line between Norfolk and Baltimore. The Southern Railway owned the Chesapeake Steamship Company between Baltimore and Norfolk. The old Dominion Steamship Company was controlled by the various lines serving Norfolk, and that line operated between Norfolk and New York. The Clyde Line was an independent steamship company, but worked in harmony with the other steamship lines. That line, back in the old days, operated from New York and from Boston to Charleston and to Jacksonville and also had a line from Philadelphia to Charleston.

There was quite a connection or relationship as between the all-rail routes from the Eastern Seaboard territory including interior points and the Southeastern points, through the domination of these steamship lines by the Southern rail carriers. That is what I had in mind a moment ago when I said that the Southern carriers could

and did control rates between the East and South. These rail and water lines made any rates they wanted to, and were absolutely controlling of the rates between the North Atlantic ports and the South Atlantic ports and in turn to the Southern interior points. The rates having been so established by these water and rail routes, the all-rail routes, if they wanted to participate in the traffic, had to in a measure meet the water and rail situation. For many, many years, in fact, long before I went into the railroad business, the all-rail rates were made a differential over the water and rail rates from the North Atlantic ports. [fol. 3426] Taking New York, for example, the differential over the water and rail rate, first class, was 12 cents and the other North Atlantic ports were related to New York in varying degree. Now, having made the all-rail rate 12 cents higher than the water and rail rate from New York, as illustrative, that rate was held as maximum from points south of New York until Philadelphia became controlling.

At that time the Northern railroads published what is known as specific proportions from the entire East and Eastern New England, down to the Virginia gateways, so in making the all-rail rates from the interior points to the South, they were made as much higher as these specific proportions to the Virginia gateways were over the specific proportion from New York or Philadelphia to the Virginia gateways. Well, the rail and water lines were not satisfied to see all of the traffic handled by the all-rail lines, so they, without the concurrence of the Northern lines, established rail, water and rail rates between the interior Eastern and New England points and the South which were made at that time on a scale of differentials beginning with 8 cents first class under the all-rail rates from these interior points; and the water and rail routes then absorbed the local rates of the Northern lines to the North Atlantic ports. That situation was responsible for the large groupings which are reflected in the groupings shown on pages 9 and 10 of Section 2 of Witness Hart's Exhibit No. 88 in this proceeding. There [fol. 3427] was competition between the different ports for interior traffic, Baltimore and Philadelphia, for example, and interior Pennsylvania, and in equalizing the rates under the Eastern Class Rate Adjusment, it became necessary, that is Fourth Section observance made it

necessary to establish these more or less large groupings in the Eastern Territory.

Now, Mr. Hart has made only passing mention of the influence of those water and rail routes between the East and the South. He did not refer, as I recall it, to the control which I have mentioned which was exercised long before the Southern Class Rate case. He did mention the domination, as he termed it, I think, or rather the ability of the Illinois Central to control the rates between the South and Illinois Territory by reason of its continuous lines through both territories, and to the control of the Monon—C. I. & L., by the Southern Railway and the Louisville & Nashville Railroad. As I recall it, however, the control of the Monon by these two lines was acquired long after the rate structure into that territory was put into effect, presumably by the Illinois Central. So whereas there might have been some control or influence of the interterritorial rates into the West, as stated by Mr. Hart, which was also brought out very strongly in the Southern Governors case, they have been extremely careful not to mention the control which [fol. 3428] the Southern lines exercised over the rates from interior Eastern Trunk Line Territory, by the operation of these steamship lines.

Mr. Norman: Just a minute, please, Mr. Bell.

By Mr. Norman:

Q. Do you mean that they control them now?

A. I said, no mention was made of the control which the Southern lines exercised over the rates by virtue of the operation of the steamship lines.

Q. You do not mean today, do you?

A. As a matter of fact, they are not operating today; they are not running today, Mr. Norman.

Q. I know, but when they were running, were they controlled by these lines?

A. The water-rail routes?

Q. Yes.

A. From the Eastern Territory?

Q. Yes.

A. I just spent ten minutes telling how they were.

Q. From the interior?

A. From the interior of the East, yes. I just told you how it was done.

Mr. Norman: All right.

The Witness: Rates were made lower than the all-rail rates on a differential beginning with 8 cents, first class. I might say this, that in 1918, I think it was, due to war conditions, the Director General authorized the halving of [fol. 3429] these differentials by water and rail routes, but as a result of the Southern Class Rate case, or following that case, the differentials as I recall it today from the port cities are uniformly 10 cents less than the all-rail rate. I think that is shown in one of Mr. Hart's exhibits.

Now, as to the present control of those steamship lines, the Southern still controls the Chesapeake Steamship Company, I think. I think the Bay Line is controlled by the Seaboard Air Line. I believe the Central of Georgia still controls the Ocean Steamship Company. Certainly, whether they are controlled or not, these rail-water routes are going to resume business after the Government gets through with the boats, if there are any boats left, and I am wondering here what would be the effect if the contentions of the Southern interests would prevail, that a parity of rates be established all-rail, between the South and the North; if they would not contend, then, for still lower rates on a differential basis via the water and rail routes which would give them an even lower basis than would be in effect, mile for mile, in Official Territory.

Chairman Aitchison: Do you happen to know whether or not such a differential was made after the rates in the Southern Governors case had become effective?

The Witness: Will you repeat the question, please?

Chairman Aitchison: The reporter will read it.

[fol. 3430] (Question read.)

The Witness: If I correctly understand your question, Mr. Chairman, the class rates were not involved in the Southern Governors case and the differentials which were established as a result of the Southern Class Rate Investigation in the key rates between the North and South were not changed as a result of the Southern Governors case.

Chairman Aitchison: No, but should I understand that these differentials applied only on class rates and not on commodity rates?

The Witness: Well, the differentials were—I referred to the class rate adjustment, but to the extent they made commodity rates, they would undertake to make them lower

than the all-rail rates if the Southern water and rail routes—that is, the rails—could afford to absorb the proportion of the lines beyond the North Atlantic ports.

Chairman Aitchison: Did any such result follow the decision in the Southern Governors case with respect to the commodities involved in that case?

The Witness: I could not answer that without referring to the tariffs, Mr. Chairman. I do recall one particular instance where the Southern rail and water routes established rates that were much lower than the all-rail rates because they wanted to influence the traffic by rail and water routes. That was in connection with printing paper from Canton, North Carolina, and Kingsport, Tennessee, [fol. 3431] going to the North Atlantic ports. That was done since I left the railroad service, but I had occasion to develop that when I was in some cases for the West Virginia Pulp & Paper Company.

Mr. Norman: Do the rail and water rates apply in both directions?

The Witness: The rail-water rates?

Mr. Norman: Yes.

The Witness: As I recall it—well, Mr. Norman, I would not want to answer that definitely without looking it up. I will be glad to do it, though.

Mr. Norman: So if there were a parity of rail rates established and then a differential of 10 cents under made rail and water, the South would have no advantage over the North if they applied in both directions, would they?

The Witness: No, but I am thinking about the effect of the rail and water rates upon the all-rail class rates made on a mile-for-mile parity for which you are contending here.

Mr. Norman: They would be the same in both directions.

The Witness: I would say this, Mr. Norman, that on certain commodities—as I recall it, it is true with respect to paper—they were made to apply northbound so as to put Southern products into the North. Just to complete the picture, I will state very briefly that the former basis for making rates between the South and Central Freight Association Territory, and under the basing point system, as [fol. 3432] I have stated, there is little or no observance of the long-and-short haul provisions. The rates up to the time of the Southern Class Rate case were usually made by the lowest combination on any Ohio or Virginia gateway, and that combination was equalized; and there was a well-

defined relationship as between the respective Ohio River gateways on the one hand and the respective Virginia gateways and Eastern port cities on the other hand to and from the basing points in Southern Territory. That concludes, Mr. McCollester, the rate recital.

Mr. McCollester: If you want to adjourn at this time, Mr. Chairman, this is a good breaking point.

Chairman Aitchison: Before we adjourn, or recess, rather, Mr. C. H. Ware, Traffic Manager of the Norfolk & Southern has submitted a brief statement with a number of citations of cases in which the Commission has prescribed or recognized the principle of special rate treatment for the Norfolk & Southern Railway. Mr. Ware telegraphed me to find out if he would have to come here and testify to this, or whether it would be accepted without his having to be present.

Mr. Hughes: I do not think all of us have seen that, Mr. Chairman.

Chairman Aitchison: Here it is.

Mr. Hughes: We have no objection.

Chairman Aitchison: Is there any objection to receiving [fol. 3433] this statement in evidence as Exhibit No. 169? (No response.) We have plenty of copies and they have been distributed in the usual way. Exhibit 169 is received.

(Exhibit 169 received in evidence.)

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: We will suspend until 8 o'clock this evening. It will be understood that the session tomorrow morning will convene at 9 o'clock.

(At 6 o'clock P. M. recess taken to 8 o'clock P. M.)

[fol. 3434] Evening Session

8 o'clock p. m.

Chairman Aitchison: Come to order, please. Mr. Moore.

D. O. Moore was sworn and testified as follows:

The Witness: My name is D. O. Moore. I am Manager of the Freight Traffic Division of the Pittsburgh, Pennsylvania, Chamber of Commerce, a position which I have held,

now, for the past 26 years. Prior to that time I was a free-lance traffic manager for a number of shippers at Chicago, Illinois. Prior to that time I was in the Freight Traffic Department of the Illinois Central Railroad, in various capacities, from assistant tariff clerk up to chief rate clerk. I have prepared an exhibit, which I would like to submit at this time, composed of four sheets, attached to my prepared statement, with an index on the front, to both the statement and the exhibit. I will ask to have he exhibit marked at this time for identification, and with the permission of the Commission I would then like to read my statement.

Chairman Aitchison: Your exhibit may be marked No. 170 for identification.

(Exhibit No. 170, Witness Moore, marked for identification.)

The Witness: Exhibit No. 170 for identification, Sheet 1, is a summary of various tables showing Pennsylvania's share of manufacturing in the United States, as a whole [fol. 3435] and by commodity groups, contained in the Pennsylvania State College Studies, No. 11, entitled "Industrial Trends in Pennsylvania Since 1914", citing the figures for 1914, the high and low years and 1939.

This study was made by Carl William Hasek, Ph. D., George Leland Leffler, Ph. D., and Richard Hadly Waters, Ph. D., and the source of the data used was Census of Manufactures; Census of Population and Statistical Abstract of the United States.

To this summary another column has been added showing the 38 decreases and 14 increases in number of points. The net decrease is represented by Table No. 1, the value of all manufactured products, of 2.3 points or about 20 per cent.

This compares with a decrease in Pennsylvania's proportion of the population of about 10 per cent, based on the following figures:

Population

Year	United States	Pennsylvania	Pa. % of U. S.
1910	91,972,266	7,665,111	8.33
1920	105,710,620	8,720,017	8.25
1930	122,775,046	9,631,350	7.84
1940	131,669,275	9,800,180	7.52

Source—World Almanac.

Decrease—0.81 points, or about 10 per cent.

The rate of decrease in Pennsylvania's share of manufac-
[fol. 3436] turing is, therefore, two times that of its proportion of the population.

Sheet 2 of the exhibit shows a summary of miscellaneous tables from the same study, as follows:

Table No. 2—An index of the Value of Manufactured Products in the United States and Pennsylvania showing Pennsylvania to be 0.9 point higher than the U. S. in 1914 and 15.3 points lower in 1939.

Table No. 4—An index of Factory Employment in the United States and Pennsylvania showing Pennsylvania to be 2.8 points higher than the U. S. in 1923 and 16.8 points lower in 1939.

Table No. 6—An index of Factory Payrolls for the United States and Pennsylvania showing Pennsylvania to be 3.8 points higher than the U. S. in 1923 and 17.1 points lower in 1939.

Table No. 8—Showing the per capita production of Manufactured Products in the United States and Pennsylvania for the years 1899, 1909, 1919, 1929 an 1939, to which has been added the ratio of Pennsylvania to the U. S. of 174 per cent in 1899 and 128 per cent in 1939.

Table No. 58—Shows the share of Manufactured Products by State Groups, which is self-explanatory.

Table No. 60—Shows the Share of Manufactured Products of 8 Leading States, which is self-expalnatory.

The authors, in their conclusion, state:

[fol. 3437] "In the preparation of this broad survey of industrial activity of Pennsylvania it has been found repeatedly that the state has been losing out as a national producer. Its share of national production along the majority of lines has declined since the World War. Nearly three-fourths of the 40 leading manufacturing industries examined showed a declining share of their respective national totals since 1919, including the key iron and steel and textile industries. As a coal producer the state is also declining in national importance. It has lost first position in bituminous coal production, although still retaining that place for total production. Other nonindustrial series, such as population, building construction, and electric power, show that the state has failed to keep pace with national expansion. The state is still growing but at a less rapid rate than is the country as a whole.

"This unfavorable finding concerning Pennsylvania is not unique. Similar conditions were found in other northeastern states. Massachusetts has shown a marked industrial decline in the last quarter of a century. New York, and New Jersey are also showing a relative decline, although to a less extent than is the case in Pennsylvania. Ohio is barely holding its position as a great industrial state. Expansion to the South and to the West has been marked in many cases.

"It has not been the purpose of this report to examine [fol. 3438] causes but rather to determine facts, leaving to others the important problem of their analysis.

"That the state is failing to keep pace with the nation along industrial lines is of great significance to governing officials of the state, to its taxpayers, its workers, and its industries, and to every institution and citizen within its borders. That such a trend will be continued cannot be prophesied. For all those dependent upon the state's industrial welfare, it is hoped that steps can and will be taken to prevent the continuation of such a trend. What those measures are is outside the province of this investigation."

Sheet 3 of the exhibit is a reproduction of a graph of the U. S. Census Bureau showing similar data for the Pittsburgh Industrial Area comprising Allegheny, Beaver, Washington and Westmoreland Counties for the years 1937 and 1939, based on the following figures:

Pittsburgh Industrial Area: Total 1939—wage earners, 191,903; wages, $271,080; cost of materials in thousands of dollars, 858,173; value of products in thousands of dollars, 1,501,398; value added by manufacture, in thousands of dollars, 643,225.

Total 1937: Wage earners, 227,675; wages $348,761; cost of materials in thousands of dollars, 979,551; value of products in thousands of dollars, 1,746,908; value added by manufacture, in thousands of dollars, 767,356.

[fol. 3439] The decline in Pennsylvania's percentage proportion of manufactures of the United States occurred despite the fact that Pennsylvania is located in Eastern Territory enjoying the lowest level of class freight rates.

Southern Territory on the other hand with a higher level of class freight rates has enjoyed net increases during the same quarter century as indicated by the summary of Table 58 for East South Central (e) and South Atlantic (f) States, Sheet 2 of my exhibit. This is borne out by

advertisements in national trade publications of the Southeastern Governors Conference, Lawrence Wood Robert, Jr., Executive Director, Atlanta, Georgia, one such "ad" appearing in "Business Week" of April 16, 1938, showing an outline map of the United States and a circle graph showing the following amounts invested in expansion and modernization of the process industries in 1936 and 1937:

Southeastern States, including Louisiana, $129,805,000*; Middle Atlantic States, $50,266,000**; Middlewestern States, $38,963,000; Southwestern States, $35,571,000; Far Western States, $29,380,000; Rocky Mountain States, $25,710,000; and New England, $3,830,000.

*—the "Lion's Share" as stated in the ad. **—Pennsylvania's Share, $6,400,000.

The total for the Southeastern and Southwestern states is $165,376,000, almost one-half of the grand total of [fol. 3440] $350,000,000 for the entire United States and more than three times that for the Middle Atlantic and New England States combined.

The purpose of calling attention to these matters is to show that the industrial decline or growth of any section is not dependent entirely on freight rate structures.

As to some types of industry the matter of freight rate adjustments is of greater influence than other factors and as to others not so important. With the wide variety of commodities and processes of manufacture there are no doubt equally numerous other conditions than freight rates controlling the selection of industrial locations.

Eastern Territory Class Rate Structure. The class freight rate structure prescribed by the Interstate Commerce Commission for Eastern (Official) Territory (164 I. C. C. 314) became effective December 3, 1931, more than 10 years ago and has generally been accepted by the shipping public.

As to the prior Trunk Line Territory adjustment, the Commission said in the case cited at Page 327: "The system of groups and differentials that has been described produces relations so wholly at variance with distance that they seem indefensible. * * * Where the group bases are not applicable, rates for the most part are based on unpublished distance scales. The history of these scales is obscure, and some railroad traffic men deny their existence. Nevertheless the record indicates that these scales were [fol. 3441]

responsible for many of the present rates in Trunk Line Territory."

With respect to Central Freight Association Territory the Commission said, at page 333, "Prior to 1917 class rates within Central Territory were unsatisfactory to both shippers and carriers as was pointed out in the Five Per-cent Case, 31 I. C. C. 351,402. In accordance with suggestions in that report the carriers soon afterward set to work on a readjustment, which was submitted in a suspension proceeding C. F. A. Class Scale Case, 45 I. C. C. 254, 46 I. C. C. 475. In that case there was prescribed a distance basis of class rates which was a modification of the system proposed by the carriers. The same basis was approved for intrastate application in Ohio, Indiana and Michigan by the regulatory bodies of those states and was also applied in such portions of West Virginia, Pennsylvania and New York as are included in Central Territory. It was put in force in Illinois as a result of Illinois Classification, 55 I. C. C. 290."

A reasonably systematic structure of class rates has therefore been in effect to the East and West of Pittsburgh for more than 10 years in Trunk Line and about 25 years in Central Territory and should not be discarded for any new and untried system when there is no general demand for any change by shippers in Eastern Territory.

Witness Jensen's Suggestions for Improvement in Rail-[fol. 3442] road Class Rates. Exhibit No. 7: "There seems, however, to be adequate warrant and need for dividing Official Territory itself, with a lower level of Class Rates in Central Territory than in Trunk Line Territory and New England." (Page 58)

"It is accordingly recommended that the first class rates in Trunk Line Territory and in New England be made 5 per cent higher than those in Central Territory, and that Central Territory be limited to the plains section west of the Allegheny Mountains by moving the boundary between Central and Trunk Line Territories westward approximately to a line drawn from Cleveland, Ohio, to Huntington, West Virginia." (Page 60)

Witness Jensen admits that traffic density in terms of tons originated and terminated per mile of railroad is slightly greater in Trunk Line Territory, but operation in that section is more difficult both by reason of the mountainous terrain and of industrial and urban congestion.

He further states that these physical conditions affect the cost of highway transportation in the two territories even more than they do that of rail transportation. (Page 58)

Witness Jensen takes no account of the opening to truck as well as passenger transport of the Pennsylvania Turnpike, a superhighway of 160 miles in length from Irwin, Pennsylvania, to Harrisburg, Pennsylvania, which by means of seven tunnels goes under the mountains, saving [fol. 3443] 9,000 feet of vertical climb, the maximum grade being 3 per cent, which has intensified truck-rail competition between points East and West of the Allegheny Mountains.

The Pennsylvania Turnpike has no rail, highway or street crossings at grade and points of entrance or exit are arranged so that through traffic is not interfered with, thus permitting speedy movement, whereas—the highways between the same termini, namely, U. S. Routes 11 and 30 (Lincoln Highway) there are 939 road and street intersections and 12 railroad crossings, as well as 25 traffic stop-lights.

According to an announcement appearing in the New York Herald Tribune of October 22, 1942, Public Roads Commissioner Thomas H. McDonald stated that New York State has planned (after the War) the building of a 468 mile superhighway from Suffern along the West bank of the Hudson to a point near Albany, by-passing Utica, Syracuse, Rochester and Buffalo and along the shore of Lake Erie to the Pennsylvania line, of four lanes, surpassing any existing highway in length in uninterrupted travel possible.

The purpose of calling attention to these proposals is to show that present day information is not adequate on which to base a freight rate structure to fit post-war conditions, the time of which may be far in the future, although our hopes are to the contrary.

For the past 10 or 11 years the level of the class rates in Trunk Line Territory has been the same as that in [fol. 3444] Central Territory, and for the preceding period of 14 or 15 years back to 1917 they were somewhat less than the Central scale as shown in the Appendix B comparison at page 463 or the Commission's decision in the Eastern Class Rate Investigation, 164 I. C. C. 314, for distances up to 540 miles.

The Commission, in the C. F. A. Class Scale Case (45 I. C. C. 254, at pages 257-258) found that prior to 1917 the class rates in Central Territory were on a lower scale than prevailed elsewhere in the country, but pointed out that the structure was honeycombed with inconsistencies. In connection therewith it called attention to an Ohio statute enacted prior to the Civil War which provided that for rail hauls of 30 miles or more within that State the rate for the transportation of property, with certain exceptions not mentioned, should not exceed 5 cents per ton per mile, which had the effect of making the rates on the first three classes for various distances, but principally for short hauls, less than they would have been under a strict observance of the C. F. A. scale.

The statutory basis for a distance of 30 miles resulted in a rate of 7.5 cents per 100 pounds, and that rate, under a decision of the Ohio Supreme Court, became the maximum for distances less than 30 miles. It had depressed the first class rates for distances up to 100 miles, the second class rates for distances up to 45 miles, and the third class [fol. 3445] rates for distances up to 30 miles. The rate depressions thus brought about in the State of Ohio had spread, through the action of competitive forces, to other states in C. F. A. Territory and had become a part of and affected more or less the whole scale.

The Commission also had found that the then existing rates in C. F. A. Territory for distances of 475 miles, which was the distance used in publishing rates between Chicago and the Western Termini of Eastern trunk lines, were based on 60 per cent of the Chicago-New York rates, and that these rates were graded down and the rates fixed by the Ohio statute graded up until the two met. Although the Ohio statute had been repealed two years prior, the Commission stated its effects still remained.

While the Commission found that prior to 1917 the C. F. A. class rates were lower than elsewhere it should be remembered that under the McGraham scale the 60 per cent basis between Chicago and Pittsburgh of the Chicago-New York rates also applied East of Pittsburgh to New York for 440 miles, but there was no systematic grading of the rates for shorter distances.

Attention is called to this situation to show that even though the C. F. A. rates may have been lower than elsewhere prior to 1917, that fact should have no weight in the

determination of whether or not Central Territory should [fol. 3446] be given lower rates than the remainder of Eastern Territory for the future.

With respect to Witness Jensen's suggestion that the boundary between Central Freight and Trunk Line Territories be moved Westward from the present Buffalo-Pittsburgh line to a new line extending from Cleveland, Ohio, to Huntington, West Virginia, it is proposed to require Pittsburgh shippers to pay a 5 per cent arbitrary for the portion of the haul lying East of the proposed Cleveland to Huntington boundary in reaching points West thereof in competition with Cleveland, Cincinnati, Chicago and other points which will continue to enjoy the 100 per cent base, notwithstanding the fact that for many years the level of the rates from Pittsburgh has been the same as from that portion of Central Territory proposed to be retained as the base. Sheet 4 of the exhibit contains several examples of the first class rates, present (not including X-148 increases) and proposed from Pittsburgh compared with Cleveland, Cincinnati and Chicago, showing the increase in spread that will result if the Jensen proposed system should be approved.

The railroad grades in the area between the present and proposed boundaries are minor as compared with those of the Allegheny Mountains and are not of sufficient influence to exact an arbitrary and place further burdens upon shippers in meeting competition from other shipping points. [fol. 3447] The position of the Pittsburgh Chamber of Commerce, briefly stated, is as follows:

It is opposed to a general revision of the class rate structure East of the Rocky Mountains in their entirety for the purpose of providing relief on a limited number of specific commodities, shippers of which now have recourse to correct through negotiations with the carriers or finally through complaint proceedings to the Commission;

It is opposed to any general change in the Official Territory class rate structure as there is no general complaint from shoppers regarding it and particularly opposed to any increase in the level thereof to bring about parity with the levels of other territories or general uniformity throughout the area involved in this proceeding;

It takes no position with respect to the levels of the class rates in other territories but in the event the Commission should prescribe any change therein the interterritorial class rate structures for the future should be made by a

blending of the respective territorial structures involved; and

With particular reference to the Official-Southern inter-territorial class freight rate structure it opposes application of the "destination" level from the South to the North if the higher Southern level should be applied from the North to the South.

[fol. 3448] That is all I have, in the way of a direct statement. At this time I would like to offer my exhibit 170 in evidence.

Chairman Aitchison: Without objection, Exhibit 170 is received.

(Exhibit No. 170, Witness Moore, received in evidence.)

Chairman Aitchison: Cross-examine.

Cross-examination.

By Mr. Norman:

Q. Mr. Moore, Pennsylvania is one of the oldest manufacturing states in the country, is it not?

A. I would say so.

Q. You have recited a lot of history, that goes back even beyond your own time, have you not?

A. Oh, it goes back a long way, yes, sir; back to Revolutionary War times, I guess.

Q. Yes. Now, there was a time when the state of Pennsylvania had probably 30 or 40 per cent of the manufacturing of the entire United States, was there not?

A. Well, I would not be able to answer your question as to everything, Mr. Norman. It had about that proportion of iron and steel at one time, however, I believe.

Q. Now, as I understand it, your complaint, and the complaint of the authors of this document—I do not know just what it is——

Chairman Aitchison: Study.

[fol. 3449] By Mr. Norman:

Q. —this study which was made by the Pennsylvania Commission is that Pennsylvania is losing its proportionate share of national production; is that correct?

A. We are not complaining here about it, Mr. Norman.

Q. How?

A. I say, we are not complaining here about that. I have not made any complaint here. I am simply here to outline the situation with respect to Pennsylvania, in response to this investigation.

Q. Well, then, what is your purpose, in setting that forth?

A. Sir?

Q. What is your purpose, I say, in setting forth what you have put into the record here?

A. Why, my only purpose in setting it forth was because it has been set forth in this proceeding that there may be an upheaval of the freight rate structure, and that we do not want.

Q. I know, but what does that have to do with the fact that the State of Pennsylvania has been losing, not in fact, but in percentage, in its production, in percentage of the national production?

A. (No answer.)

Q. Would you not expect, now, that that would happen, and that the rest of the country was going to develop, in manufacturing?

A. Why, I would naturally expect, as the country has [fol. 3450] developed to the westward, to the southward, or to the northward—if that may be somewhat—that we would lose some, but not at any greater rate than our change in population made necessary.

Q. Not at what?

A. In other words, if we are gaining 5 per cent in population, and only gaining 2.3 per cent in production, why, I do not think that we are keeping up the proper pace.

Q. Well, now, is not the trouble with all of the old states, when you come to consider the situation from the standpoint of their proportionate share of the national production, in the fact that new states and new part—of the country are developing, as they naturally would?

A. Oh, to a certain extent, there is not any question about that, there is no doubt about that, I would say.

Q. For instance, there was a time when Virginia probably had around 40 per cent of the production.

A. Yes.

Q. Do you think, now, that there is any ground for complaint because they do not any longer have that?

A. Virginia I do not think has lost, or gone down any, in the last few years, based on its population.

Q. Well, now, you are also complaining about the fact that Pennsylvania is no longer the leading producer of coal, are you not?

[fol. 3451] A. I am not complaining about that, no, sir.

Q. How is that?

A. I am not complaining, no.

Q. You are just setting that forth?

A. Yes, sir.

Mr. Norman: All right. I have no further questions. Thank you.

Chairman Aitchison: Is there any further cross-examination of Mr. Moore? (No response.) Apparently not. You are excused.

The Witness: Thank you.

(Witness excused.)

Chairman Aitchison: Mr. Hollopeter.

H. A. Hollopeter was sworn and testified as follows:

The Witness: My name is H. A. Hollopeter. I reside at Indianapolis, Indiana. I am Traffic Manager of the Indiana State Chamber of Commerce, which position I have held for the past five and a half years. Prior to that time I had 30 years' experience in railroad, industrial and commercial traffic and transportation work. During substantially all of that period I have had duties that required me to study and analyze freight rates and rate structures. This has necessarily embraced rates and rate structures throughout the entire United States. For the past 7 [fol. 3452] years I have been chairman of the Rate Construction & Tariffs Committee of the National Industrial Traffic League; and for the past four years I have been teaching traffic and transportation at Butler University. Both of those activities involve a thorough and careful study of rates and rate structures, both historically and currently, which has supplemented my practical experience in the handling of rate adjustments and transportation problems for my principals throughout the entire period of my experience. During the current investigation I have joined with a number of other traffic men, both commercial and industrial, throughout Central Territory, in the for-

mation of a Central Territory Rate Conference. We have had a number of meetings of this Conference in connection with the matters that are involved in this proceeding, and we have endeavored to consolidate our evidence, which is to be offered on behalf of the four states that comprise Central Territory, namely, Indiana, Illinois, Ohio and Michigan. In the preparation of our evidence for this record, we have endeavored, as far as possible, to avoid duplication of statistics of other data presented by preceding witnesses.

Now, I have prepared two exhibits for presentation here, one consisting of 56 pages, and the other of 3 pages. The exhibits have been distributed, and I now wish to offer them for identification.

Chairman Aitchison: Exhibits 171 and 172.

[fol. 3453] The Witness: The larger exhibit, containing the 56 pages, will be 171 for identification; and the other exhibit, the 3-page exhibit, will be 172.

(Exhibits Nos. 171 and 172, Witness Hollopeter, marked for identification.)

The Witness: The first 40 pages of my Exhibit No. 171 for identification comprise a counter-analysis of some of the mileage rate scales which have been dealt with by Witness Hobbs in his Exhibit No. 5 in this proceeding. For brevity, because I think it will adequately serve the purpose, I have used only about one-third of the scales employed by Witness Hobbs. I have taken them from the first part of this exhibit, and I have used each scale that he used in that portion of the analysis. Witness Hobbs has used what I shall term as a sampling process in his analysis, and does not portray that which I desire to show in connection with the general subject of mileage scales. He simply reached into the scale, so to speak, at each 100-mile point, and picked out that particular rate for analysis. He used the present rates, which in every instance have been augmented by one or more percentage increases since they were originally prescribed. This often distorts and obscures some of the fundamental relationships and characteristics of these scales, as prescribed. My purpose has been to take these same scales, as originally prescribed, [fol. 3454] and analyze them to develop these fundamental characteristics and principles. I have then shown the present rates under the same sort of analysis that I have

—the original scale. Before proceeding to discuss my first exhibit, it will be pertinent, I believe, to observe some of the fundamentals of mileage scales in general. Perhaps the first scale which was designated as a formula for rates, and only at times referred to as a scale, was the McGraham formula. The preceding witness Mr. Moore, has mentioned that, but I would like to discuss it a little further. It was among the first, if not the first in existence, where rates were designed to reflect some difference in the distance involved. It was, however, certainly one of the early attempts to use mileage to indicate the trend and relationship of transportation costs. It was only applied within a territory where it was assumed that the transportation costs were probably uniform; and the Commission has often observed since that this is the only condition under which distance does reliably indicate cost trends and relationships. The important fact is that in this early scale the New York-Chicago rate, the most important rate in the territory, or the one moving the greatest volume of traffic, was used as the basis. Other rates were made in relation to that, on the relationship of mileage, either assumed or actual. Without discussing it further, I would simply call attention to the fact that a clear and complete [fol. 3455] history of that adjustment will be found in the Michigan Percentage Case, reported at 47 I. C. C. 409. Subsequent to the McGraham scale, the famous Disque scale was constructed. It was more completely designed in the manner of all subsequent mileage scales, than was the McGraham formula.

Chairman Aitchison: While you are talking about the prescription of that scale, the Disque scale, that was based —although I believe Mr. Disque claimed to be ignorant of it—upon the principle of the rate expressed in cents, plus the square root of the distance, multiplied by two, plus 10 cents.

The Witness: Well, I have not analyzed it quite that far, Mr. Chairman, I will admit, but I have observed some of the fundamentals of it, to which I would like to call attention. One of the principles that I believe I have observed, with relation to the Disque scale, is that, as is generally accepted, or generally said as to all mileage scales, it reflects the will of its maker. It is also said of mileage scales that they are generally built to meet the needs of industry

and commerce as they are found to exist. The Disque scale prescribed in I. & S. 965, 45 I. C. C. 254, appears to be designed, at least, to do that, by perpetuating the rate moving the greatest volume of traffic in the territory, the fifth class rate, from Pittsburgh to Chicago, which at that time was applied to the movement of iron and steel. [fol. 3456] It also just cleared, at the other end of the scale, the statutory maximum rate for Ohio, which, as the previous witness has stated, has now been taken out of the picture. The rates in these mileage scales can be said to be composed of two principal factors, namely, the terminal factor and the linehaul factor. These are readily discernible in the mileage scales, as far as the linehaul factor is concerned, by the measure of progression in the rate. The will of the maker of the scale is therefore easily projected into the scale by selecting the desired terminal factor, and then applying the amount of linehaul factor and the kind of rate of progression necessary to meet the purpose to be accomplished. The distances in mileage blocks for which rates are applied, are generally smallest at the beginning of the scale, for the shorter distances; and they increase in length as you progress toward the end of the scale. The rate of progression generally, which is the increment in the rate for each mileage unit, is greater at the beginning of the scale, and becomes less as you progress toward the longer distances. Thus the rate of progression may be treated to produce any desired rate at any point of the scale, by making it high, to start with, and breaking it only slightly, or late in the scale, or vice versa, as needed, as the case might be.

Now, in order to more exactly follow the analysis that [fol. 3457] I have made, I will ask you to refer to page 1 of my Exhibit No. 171 for identification. This deals with the Eastern Class Rate Scale, as indicated there. Here under Columns A and B we find that the mileage blocks employed are in lengths of 5 miles each up to 100 miles; from 100 miles to 240 miles, they are 10 miles each; from 240 miles to 800 miles they are 20 miles each; and finally, from 800 miles to 1,500 miles, the end of the scale, the blocks are 25 miles each. Now, Column C on this page shows the rates, first class, in cents per 100 pounds, at the several points where the rate of progression changes in the original scale. Column D shows the rate of progression employed on the basis of cents per hundred pounds

per 100 miles. By that I mean that we have, for reaching a common denominator in all of these progressions, used the progression that would apply per each 100 miles. In other words, at the beginning of this scale, the rate of progression was 1 and 2 cents, alternating for each 5-mile block. That is increased then by 3 cents for each 10-mile block, or 30 cents for 100 miles. We have used 100 miles, as I say, as the common denominator. This 30-cent rate of progression per 100 pounds is effectuated in the scale by adding to the rate for each mileage block, as indicated, in this portion of the scale, the alternation of 1 and 2 cents. In Column E I have indicated the first rate of progression, or the highest, as 100 per cent. Beyond 75 miles the rate [fol. 3458] of progression drops to 20 cents per hundred miles, or 66⅔ per cent, of the average progresion as shown in Columns D and E, line 4. This second rate of progression is effectuated by adding 1 cent for each 5-mile block up to 100 miles, and then 2 cents for each 10-mile block, beginning at 100 miles, and extending this progression up to 150 miles.

By Chairman Aitchison:

Q. Do you not find that this particular class rate scale has a bad hump in it, at 200 miles?

A. No, sir, I believe not, Mr. Chairman. I have a chart here, a graph, which I will come to a little later on, at which point I think I can discuss that matter a little more readily.

Chairman Aitchison: I think you will find that it works out that way.

The Witness: Now, my 150-mile rate of progression is again reduced to the basis of 15 cents per hundred miles, and this is effectuated by increasing the rate for each added block of 10 miles, by an alternation of 1 and 2 cents, up to 240 miles. This, of course, is just 50 per cent of the original rate of progression. Beyond 240 miles, and continuing on up to 700 miles, where the mileage blocks are 20 miles each, the rate of progression is again reduced to the basis of 12 cents for each 100 miles, or 40 per cent of the original. This is accomplished by applying the alter- [fol. 3459] nating increment of 2 cents and 3 cents for each added block of 20 miles, with an added 2 cents for each

100-mile group. Beyond 700 miles, and up to 1,500 miles, which is the end of the scale, a further reduced rate of progression is employed. It is on the basis of 10 cents per hundred miles. That is accomplished by adding 2 cents for each 20-mile block, up to 800 miles, and then an alternation again of 2 cents and 3 cents for each 25-mile block, to the end of the scale. I think that it is pertinent to comment right here, Mr. Chairman, that this is a pattern that has been generally followed in most scales. It is true that some scales have been given a somewhat higher rate of progression at the beginning, and it has been extended further in the scale, or some may have broken earlier in the scale; and those breaks, of course, form a bend in the scale, when it is charted or shown on a graph.

By Chairman Aitchison:

Q. It is a straight-line progression beyond 700 miles in the class rate scale, is it not?

A. Yes, that is correct, Mr. Chairman; beyond 700 miles, it is a straight-line progression. As a matter of fact, I might say that the progression of any scale would be entirely straight, in every instance, unless the rate of progression were reduced, as we have indicated in this scale. In other words, the spreading of the terminal factor thinner as we progress toward the end of the scale, will [fol. 3460] not bend the scale at any point. These scales, which as I say have followed a pattern which has been employed practically throughout the entire history of rate scales, appear to have been originally designed to meet, as nearly as could be assumed, the trend of the cost of operation. Within the short distances, freight moving for distances of less than 75 miles generally was handled by the wayfreight trains of the carriers, which, at that time at least, was assumed to be the most expensive service that the carriers had. Beyond 75 miles, where we begin breaking the rate of progression, it was generally assumed to be because the preponderance of through freight train service, which was naturally a lower cost service, or at least generally assumed to be, entered into providing a lower rate of progression for the longer distances. Of course, as we study these scales, we find also, I think, another element, taking the longer reaches of the scales, in which the ability of traffic to move for the longer dis-

tances often required a breakdown, or a reduction in the rate of progression to produce lower rates for the longer distances. Without going into any further discussion of that point, or any further statement of history in connection with it, I would simply call your attention to what the Commission has said in the Consolidated Southwestern Cases, 123 I. C. C. 203, at page 385. There are a few scales in this exhibit to which I would like to call your attention [fol. 3461] as we pass, the first one being found on page 19.

By Chairman Aitchison:

Q. You are familiar, of course, with the Holmes & Hallowell Scale?

A. Yes, sir, and that scale had a peculiarity in it which of course I think is well to consider here. It was designed to meet a higher level in one area than in another, from which it might be argued, perhaps, that it should be applied interterritorially, if you had a higher level in one territory than you had in another; but that was only possible I should say because in that instance it was traffic that was always originating at one point, and it always moved to a certain destination before it reached the effect of the higher-rated territory or higher basis. Now, obviously, if we are going to apply that generally, the rates and the traffic under any scale will appear of course at any point in the scale, and naturally, if you build a scale that provides a certain condition up to 150 miles, say, or any other given distance, and then you increase that for conditions beyond, you do not fit the traffic which actually moves, because, as I just said, it moves for all distances.

Now, turning to page 19 of my Exhibit 171, the third scale on the page, I simply call attention to what appears to be an inconsistency in the scale. The rate of progression under Column E in the scale, we find in lines 20 and 21 increases for the longer distances rather than decreases, [fol. 3462] and I will have something to say about that feature in just a little while, when I come to the charts. Another scale which seems to stand out is shown on page 26 of the exhibit, and here again the rate of progression seems to follow no defined pattern. That again only emphasizes to me, at least, the fact that these scales, and perhaps all scales, have been designed to meet conditions as they exist,—and I believe that is the purpose of all

rates. Now, turning to the graph or chart following page 40 of this exhibit: I have here graphically portrayed the origins of four of these scales previously analyzed. I might say at this point,—and perhaps I should have stated it sooner—that the rates used in this exhibit under the heading of Present Rates, it will be observed, are the same as the rates used by Witness Hobbs, which do not include the Ex Parte 148 increases.

By Chairman Aitchison:

Q. They do include, however, the Ex Parte 123 increases, do they not?

A. Yes, sir.

Q. But they are not the figures as of the present time.

A. No, sir. I have gone back to the original scales, because I think it is impossible, as my exhibit shows, to analyze scales that have been treated for subsequent increases, and show any consistency in their make-up. We do find, however, when we go back to their origin, that there was some consistency generally in the make-up of these [fol. 3463] scales. Now referring to the chart following page 40 of my exhibit: we have portrayed there first the Southern Class Rate Scale; the Eastern Class Rate Scale; the Southwestern Scale for grain and grain products; and the Western Trunk Line Scale for wheat. The scale shows that the rather unusual lines and curves shown on the chart, refer to the scale that I have previously referred to, shown on page 19 of my Exhibit 171. This scale violates several fundamental principles of rate making, that I believe the Commission has almost universally observed. First, the rate of progression is highest at the longer distances, instead of at the shorter distances; and furthermore, this is so pronounced that the ton mile earnings under the rates increase as the distance increases, and that is a principle, or a situation which the Commission has generally found condemns the rate relationships. For example, the ton mile earnings under the rates in this scale for 300 miles are 38.6 mills; for 400 miles, 39 mills; and for 500 miles they are 46 mills. I call your attention to the fact that in this exhibit there are several scales, particularly the one set forth on page 26, to which I have previously called attention, which also violate this usual principle, and which I believe makes them impractical to

be used as a basis for constructing rates, or as an indication of what an average condition ought to be. Now, the succeeding pages of this exhibit, namely, pages 41 to 56, [fol. 3464] inclusive, are supplementary to Witness Schreiber's Exhibit No. 119, showing the separation of the four states of Illinois, Indiana, Michigan and Ohio from the groupings that he has there made, wherein he combines them with Wisconsin, Iowa, Missouri and Minnesota.

By Chairman Aitchison:

Q. Would you mind adverting back for a moment to the matter of Witness Hobbs' exhibit.

A. Glad to.

Q. What do you understand to be the purpose of Witness Hobbs' exhibit? In other words, how do you bring your exhibit into contrast with his?

A. Well, as I understand it, Mr. Chairman, one of the purposes of Witness Hobbs' exhibit, after dealing with the scales, was to construct therefrom a composite scale. I do not recall that he recommended that specifically for use in any particular instance, but my point was simply to show that these milage scales, as we have developed them through the years, have been made to meet conditions as they existed. Those conditions have varied, and they will continue to vary from time to time. Therefore, it would be wholly improper, according to the analysis that I have made of these scales, to use all of these scales, which have been designed to meet the varied conditions that may have been found to exist, or assumed to exist, throughout the wide area involved here, and try to put them together and get anything that would be [fol. 3465] worth while as a guide to follow in any given instance. Does that answer your question, sir?

Chairman Aitchison: Yes.

Com. Alldredge: Might I interrupt for one question right here.

The Witness: Certainly, Mr. Commissioner.

By Com. Alldredge:

Q. You spoke, if I understood you correctly, of general increases throwing these scales out of alignment, or out of order, so to speak. I wonder what you would think about this plan of the publication of class rates: assuming, of course, that our tariff regulations would permit, instead of

designating the ratings in the classification by numbered or lettered classes, what would you think of simply designating them by percentages, and then, instead of publishing all of the class rate scales in the tariff, publish only the base scale, or first class, and use a simple method of resolving the fractions? What would you think about that?

A. Well, now, Mr. Commissioner, I wish to have it distinctly understood that, in answering your question, I am only speaking individually, now, and not for any particular group, because I do not know that what I am about to say to you will coincide with the view of the members of any particular group. However, to answer your question for myself, sir, my own view of that is that that is a very [fol. 3466] practical way, and I believe a proper way, for handling that. Rather than being concerned about how many classes we should have in the classification, or how many classes we should have under a mileage scale, to my way of thinking, it seems to me that the simple approach to the problem, or the simple way to meet it, would be to construct a scale of base rates, and then provide a classification that would classify the various articles of commerce percentages above the base rate or below the base rate. I personally would subscribe to that method, sir.

By Mr. McCollester:

Q. Well, that would mean, would it not, Mr. Hollopeter—if I may interject a question right here, Mr. Commissioner.

Com. Alldredge: Yes.

By Mr. McCollester:

Q. —assuming that there was to be just one classification, there would have to be the same relationship between the rate on one article, and the rate on another article in all parts of the country?

Chairman Aitchison: No.

By Mr. McCollester:

Q. That is correct, is it not?

A. Well, now, Mr. McCollester, you are leading me into something there that I had not intended to cover in my testimony at this time. However, as long as you have asked the

question, speaking again purely from my own point of view, I will say this to you, that I do not agree with you at all [fol. 3467] that that would be necessary. However, I feel that a uniform classification is desirable, and could be accomplished in that manner very readily; but on the other hand, it would be just as simple, in that instance, to make machinery, let us say, 50 per cent of first class, or 50 per cent of the base class, in Western Territory, and 35 per cent of the base class in Official Territory, if you continue different classifications.

[fol. 3468] By Commissioner Aitchison:

Q. Mr. Hollopeter, I wonder if you are familiar with the further development of the plan suggested by Commissioner Alldredge, which was made by the late James Peabody, Statistician of the Santa Fe Railway, about 1907 or 1908.

A. I don't recognize it as that.

Q. He suggested base rates for each of the major groups, products of mines, forests, products of agriculture and manufactures and miscellaneous and so on. And then his proposal was that the classification should be made with respect to the articles, showing in each of those groups, relating them in percentage to the going scale for the general class of traffic. For instance, common rough lumber might mean 30 per cent of the forest products going rate, while dressed lumber might be 40.

A. I recall that from that description, although I am not particularly familiar with it and I haven't studied it a great deal. I believe, however, that in dealing with the classification of commodities, and still, again, I am speaking for myself, the simpler process would be to apply certain fundamental classification characteristics to the articles themselves to classify them. For example, a desk has the same weight, the same weight density, the same value and the same susceptibility to damage anywhere in the country, and if those should be considered the principal elements [fol. 3469] of classification, we might readily arrive at a uniform basis for classification and then reflect the various revenue needs of our carriers, if there are found to be such, in the various territories, in the rate structure alone. It seems to me that would simply the classification and rate problems we have to deal with here, sir.

Q. That is, of course, what the condition is as to l.c.l. In the first three classes the rates are virtually the same in all territories.

A. It is now, yes, generally, on the first three classes, that is correct.

Q. Now, turn to your page 41.

A. I believe that it is not necessary to take time to comment on the balance of the pages of this exhibit, because they are, as I have indicated, simply a supplement to the exhibit introduced by witness Schreiber, and we have merely, for our purpose here, drawn out of his figures, which are not possible to be computed from his exhibit, the statistics for the four states of Indiana, Illinois, Iowa and Michigan.

I might say at this time, had we been aware that some of the witnesses for the eastern states were drawing these same statistics separately, which I believe they did in some of their exhibits, it would not have been necessary for us to have prepared that portion of the exhibit.

Now, I would like to proceed to my Exhibit No. 172, [fol. 3470] which is simply a 3-page exhibit. On page numbered 1 of this exhibit, just below the title page, I have set up just for illustrative purposes rates from Chicago to various points in the Southeast, based on several different formulae, which we think are more or less sound to be applied here, if we have use of the case, different level rate territories. I think the most proper, or the formula that is the most desirable is the one shown in Column 7, which is the well-known cottonseed formula. Recognizing the claims made against this formula, that is, the difficult problems involved in its application, which have been advanced by the carriers, we have set up in Columns 5 and 6 rates that would obtain under the interterritorial basis employed by the Commission in the Western Class Rate Case. However, I want to make it clear that under Column 5 we have used the basic scale prescribed by the Commission for application between Official and Western Trunk Line Territory, but with that basic scale we have employed differentials constructed by the use of the basic scale in relation to the K-2 Scale prescribed by the Commission for Southern Territory. In Column 6 we have employed just a little bit different approach to that, in which we have used as a basic scale between Official and Southern Territory the K-2 Eastern class rate—I don't recall the designation of that; at least it is the——

Mr. Hughes: Appendix E.

[fol. 3471] The Witness: Thank you. Appendix E Scale of the Eastern Class Rate Scale, on the theory that the K-2 Scale is applied in one of the territories involved, and therefore perhaps might be argued as a more proper base scale to be used than the basic Western Class Rate Scale prescribed for a different territory. Here, again, we have used differentials that have been developed by using the Eastern Class Rate Scale as a basis with the Southern K-2 Scale and applied them in the same manner as the Commission applied the interterritorial rates to the West.

The cottonseed formula, I believe, is not necessary to be discussed, other than briefly stating it provides the same rate per mile for the haul within each territory traversed, as would be proper if the entire movement was occurring within that territory. And it is our position that that most truly reflects in the interterritorial rates the conditions which may be found influential in fixing the rate structures within the several territories and would be the most proper to apply.

I believe that is all I have, sir.

Chairman Aitchison: Do you offer these two exhibits?

The Witness: Yes, if I may, I should like to offer in evidence Exhibits Nos. 171 and 172.

Chairman Aitchison: Without objection, they are received.

[fol. 3472] (Exhibits Nos. 171 and 172, Witness Hollopeter, received in evidence.)

Chairman Aitchison: Cross-examine? Mr. Wagner.

Mr. Wagner: Just a few questions for clarification.

Cross-examination.

By Mr. Wagner:

Q. Is it correct to state that a large part of your present rates are no more than the general increases over the original rates?

A. I don't know that I get the point of your question. It seems to me it would absolutely have to follow, Mr. Wagner, that that is true.

Q. Then take your page 1.

Mr. McCollester: Which exhibit?

Chairman Aitchison: 171.
Mr. Wagner: His Exhibit No. 171.

By Mr. Wagner:

Q. In your first per cent column, shouldn't that bottom figure be 33⅓?

Chairman Aitchison: Column E.

By Mr. Wagner:

Q. Column E, at the bottom of page 1. Is 10 one-third of——

A. You are correct, sir. I am glad you called my attention to that.

Q. Now, as you follow through your second per cent column, you have substantially the same percentages, but in your Column G, there is something wrong with your first figure.

[fol. 3473] A. Well, that certainly is a typographical error and it should be 33 cents.

Q. 33 cents?

A. Instead of 44, yes, sir, indeed.

Q. So that the picture in your present column is the same as in the original column except for the disposition of fractions, roughly speaking?

A. Well, the disposition of fractions has distorted the original relationship. That was my purpose in showing those two analyses, yes, sir.

Q. But that is the only difference, the matter of disposition of fractions?

A. Oh, yes, that is the only factor that has caused the different rate of progression, as shown here, from the original.

Q. Now, will you turn to pages 5 or 7 or 8 or 9. Take 5, for instance, at the bottom of the page. Can you tell us where we can find those present rates?

A. Well, they are published in tariffs and where——

Q. Are you sure they are published in tariffs? Did not the 17000, Part 9, rate supersede the rates fixed in 77 I. C. C.?

A. Well, it may have.

Q. And those were never in the tariffs, haven't been in for the last dozen years?

A. It may have done that, Mr. Wagner, but our purpose here was simply to take, as I said on direct, the same scales [fol.3474] that Witness Hobbs had analyzed in the first portion of his exhibit. We did not go beyond that, but in setting these up, it is obvious, I believe, that my office has found in every instance, under present rates, the same rate that Witness Hobbs has used for the corresponding distance.

Q. I think Witness Hobbs only used the original scale, didn't he?

A. No, he did not. He used the present rates under those scales.

Q. Well, those rates could not be in effect now, could they, prescribed in 77 I. C. C., when 17000, Part 9, has been fixed since?

A. Well, if what you say is correct, I don't know about that, Mr. Wagner. The rates shown here may not be in effect in that instance. I am not able to say about that.

Q. Will you say I am wrong if I say on page 8 the rates, the present rates set forth therein were never in tariffs? That was only a reparation base.

A. No, I didn't go into the integrity of the scales used by Witness Hobbs to that point, no, sir. That was not my purpose.

Q. Will you take the chart between pages 40 and 41.

A. Yes, sir.

Q. The scale at the bottom. Hasn't that been superseded by 17000, Part 9?

[fol. 3475] A. Well, sir, the same answer would apply there. I simply charted this scale as being one which Witness Hobbs used in his exhibit.

Q. Well, can you see any significance in using scales——

Chairman Aitchison: Part 7, isn't it?

Mr. Wagner: Part 7, yes.

Chairman Aitchison: You said Part 9.

Mr. Wagner: Pardon me, 1700, Part 7.

By Mr. Wagner:

Q. Can you see any significance in using today scales which have been obsolete for more than a dozen years?

A. Yes, for the purpose I have used them, Mr. Wagner. My purpose was to show that along the line that I think was the intention of Witness Hobbs, to analyze the scales that have been prescribed from time to time over a period

of years, to determine, if possible, the fundamentals and principles employed in the prescription of those scales or the construction.

Q. Notwithstanding the fact that the Commission has changed those scales since?

A. Yes, wherever that would be true, that is correct, because I used exactly the same scales that were employed in Witness Hobbs' exhibits, yes, sir.

Chairman Aitchison: I suggest, Mr. Wagner, it might show the development or the evolution of ideas along this line.

[fol. 3476] Mr. Wagner: It could show trends, yes, but not even many of these rates are present rates. His purpose is to bring it up to date, and many of the scales were not brought up to date and, in fact, some of them were never published in tariffs, so he has to go back to Mr. Hobbs' prescription, and of course, his formula, and not his present rates.

The Witness: May I say in connection with that, I fear you haven't gotten the intention of my analysis. It was rather to go to the actual work which was done in connection with these scales originally, and that is why I employed the original scale, which Witness Hobbs did not do.

By Mr. Wagner:

Q. That is just what I said. In other words, after you apply your formula to Mr. Hobbs' original scale, then you can bring forward your program?

A. That is correct, but I place no emphasis, certainly, and I think there is no real significance in the portion of my analysis which deals with the scales brought down to date. I simply show that to show the connection with the scales used by Witness Hobbs.

By Chairman Aitchison:

Q. I am not so sure, Mr. Hollopeter, that you are right on your disposition of fractions on these scales. They are all of them, what are mathematically called curves, or on which formula can be worked out, and the give and take of the rule of fractions will, will it not, over the scale as a whole, result in a percentage increase equal to that you [fol. 3477] have intended?

A. Yes, I think that is true, your Honor. The only point I intended to make there was that if we view the scales as they stand today, there seem to be inconsistencies in them which might obscure and distort the original principles that were intended to be applied. And that was my only purpose in going back of the increases, where we do, in almost every instance, get a smooth progression, a much smoother one, at least, than under the present scales treated by the increases.

Chairman Aitchison: If there is nothing further, Mr. Hollopeter is excused.

Mr. Grubbs: I have some questions.

Chairman Aitchison: I beg your pardon, Mr. Grubbs.

By Mr. Grubbs:

Q. Mr. Hollopeter, does the cottonseed fromula have any application that you know of today?

A. I believe it does not, because, as I stated, the carriers were very adverse to its application because of what they termed the difficulties in putting it into effect. I personally don't observe those difficulties. I think they can be met very readily.

Q. Did you seek to have the Commission continue it over the efforts of the railroads?

A. No, not in that case. I wasn't involved in that case.

Q. Isn't it true that that formula was advocated in the Western-Southern Class Rate Case and was rejected and [fol. 3478] the Western Trunk Line formula, in general, was adopted in preference to it?

A. I believe that that is correct, for the same reason I tated previously. The carriers have always contended and felt that there were many insurmountable difficulties, I should say, almost in the application of that principle, with which I don't agree.

Q. Well, the Commission evidently agreed with the carriers.

A. Well, they acceded to their request.

Mr. Grubbs: Thank you, sir.

Mr. Smelker: I have one question.

Chairman Aitchison: Mr. Smelker.

By Mr. Smelker:

Q. Mr. Hollopefer, does your analysis lead you to favor separate progressions for carload and less than carload scales in the event this case should result in the revision of the present scale?

A. No, I believe not, Mr. Smelker, because the difference we get is very slight. It seems to me the lower percentages of the first class rate applied to carload, anyway, reduce both the terminal factor and the line-haul factor equally.

Q. Then your answer is no?

A. No, that is right. I should have said that originally.

Mr. Smelker: That is all.

Chairman Aitchison: Is there anything further? (No response.) You are excused, Mr. Hollopeter.

[fol. 3479] The Witness: Thank you.

(Witness excused.)

Chairman Aitchison: Is Mr. Lacroix here from Evansville?

Mr. Hollopeter: He isn't quite ready with his exhibits. He will be ready in the morning.

Chairman Aitchison: Are you ready to go ahead, Mr. Ellison?

Mr. Ellison: Yes, sir.

R. A. Ellison was sworn and testified as follows:

Direct examination.

By Mr. Sater:

Q. Will you state your name, residence and occupation?

A. My name is R. A. Ellison. My address, business address, is 306 Neaves Building, Cincinnati, Ohio. I am manager of the Transportation Department of the Cincinnati Chamber of Commerce and traffic consultant for numerous industries in and around Cincinnati.

Q. How long have you been engaged in the handling of traffic and transportation matters?

A. For more than 30 years, of which 17 years were with the railroads and the balance in industrial traffic work.

Q. And is your experience with freight rates and rate structures of the same length of time?

[fol. 3480] A. It is.

Q. Have you prepared an exhibit for submission at this proceeding?

A. I have.

A. Was it prepared by you?

A. Either by me or under my direction.

Q. To the best of your knowledge, is it true and correct?

A. It is.

Q. Is it the exhibit which has been marked for purpose of identification herein, I believe, 173?

Chairman Aitchison: 172.

The Witness: It is.

Mr. Sater: 173, I believe.

Chairman Aitchison: Yes, 173.

(Exhibit No. 173, Witness Ellison, marked for identification.)

By Mr. Sater:

Q. To what is your exhibit directed?

A. As a showing that there is nothing particularly wrong with the present rate structure.

Q. Have you prepared a statement in explanation of that exhibit?

A. I have.

Q. Have your exhibit and statement been distributed to the parties here?

A. They have.

[fol. 3481] Q. What conclusion do you draw from your exhibit?

A. That the class rate structures will not be materially reduced unless there be a change at the same time in the commodity rates.

Q. Will you explain your exhibit, please.

A. Exhibit No. 1, identified as No. 173, is filed on behalf of the Cincinnati Chamber of Commerce and the State of Ohio and consists of 20 pages and covers and is, except as otherwise stated a study of the rates on the commodities indicated in Exhibit No. 88, introduced by Witness E. L. Hart for the Southern Governors' Conference at Indianapolis, Indiana, on September 28, 1942.

My exhibit does not deal generally with classification ratings on any specific commodity, but is confined to a more or less extent to a comparison of rate-levels on specific commodities within the South, within Official Territory, and interterritorially between the Southern and Official Territories.

It is felt that Exhibit No. 88, offered by Witness Hart, shows comparisons on a greater variety of commodities than any one other exhibit which has been presented by those in favor of a general "shuffling" of the class rate structures and it has, therefore, been selected as representative of what the "plaintiffs" in these proceedings rely on as proof that the present rate levels are improper, [fol. 3482] especially from Southern to Official Territory.

On August 11, 1941, the Cincinnati Chamber of Commerce filed a petition with the Commission seeking an indefinite postponement of these proceedings and made the statement in its petition that: "Cincinnati is located on the border, between the North and the South and is interested in the welfare of those territories in particular and the nation in general."

We further stated in that petition: "Cincinnati is in the center of the 'arsenal of democracy'. It is the largest producer of some of the most essential materials and articles vitally necessary for the security of the nation. It knows that its situation has changed within the recent past and that it must face vastly different conditions in the future. But what those conditions will be is something that no living person can foresee. We would certainly not like to see the freight rate structure set up for our future use, which is predicated upon conditions existing within our trade territory yesterday or even today."

We have not changed our views since our petition was filed and we do oppose any break-up of the existing class rate structures which have been built by the Commission after exhaustive and painstaking investigations, under conditions much more normal than at this time, and to which business has adjusted itself in the days gone by, and [fol. 3483] the shippers should not now, of all times, be again subjected to an upheaval in connection with one of the most important items involved in the production and distribution of commerce.

Cincinnati, for illustration, is located on the border be-

tween Southern and Northern territories. It can be said, and possibly will be stated, that Cincinnati is in a most favorable position since it has the advantage of the Southern Territory level on Southern traffic and the Official level on Official Territory traffic. But, it should be appreciated, that "Southern Territory level" does not actually mean what the term, seemingly, conveys and there is, in fact, more than one "Southern Territory level" of rates and Cincinnati has not been favored with the lower level as will be more fully shown later.

From the testimony of the proponents, it appears that this is a "destination level" proceeding of major proportions as compared with some, in comparison, of minor scope through which we have passed both formally before the Commission and informally before the rate committees of the railroads since the Southern Class Rate Investigation Case, 100 I. C. C. 513, and as amended.

It will be noted from the many exhibits which have been introduced in these proceedings that there has been, through the last ten years, a constant change in the rate structure within and to and from the South, as an illustration, through [fol. 3484] the process of decisions of the Commission or the establishment of the so-called "column" ratings on innumerable commodities.

These changes are the result of numerous factors, among which are: First, decisions of the Commission; second, competitive influences; third, Fourth Section difficulties.

In connection with the last two reasons, public hearings before the so-called "Joint Conference of Contact Committees" of the railroads have generally been held when those concerned were given opportunity to be heard. These meetings continue even to this date with a schedule of one meeting every two months at Cincinnati when representatives of all of the railroads in the territory east of the Rocky Mountains meet with the shippers interested in the rates and ratings on commodities covered by their advertised dockets. In many cases, where the rates or ratings (columns representing percentages of first-class) were not to the liking of some one or more they have reached the Commission on the formal docket. It would appear unnecessary for me to mention these many cases specifically and individually since they are of record in these proceedings and I refer to page 60 of Appendix E to Exhibit No

15 presented by Witness Morris for the Southern defendants.

In Section 3-B of Witness E. L. Hart's Exhibit No. 88 there is shown 96 different commodities which, it is assumed, [fol. 3485] are intended to be representative of the commodities moving from the South to the Official Territory on the theory that the ratings (and resulting rates) are improper since he stated at page 23 of his prepared statement that: "Section 3-B lists important commodities produced in the South." It appears pertinent to say that Exhibit No. 15 of Witness Morris, previously mentioned, indicates that the Commission has formally passed upon the rates on 96 commodities, many of which are included in Witness Hart's Exhibit No. 88.

By Chairman Aitchison:

Q. You mean we have only passed on 96 commodities?

A. 96 of which the witness shows in this exhibit, Mr. Commissioner. I would say that there are hundreds that the Commission has passed on. I was only referring to the 96 that Witness Morris shows in his exhibit.

In considering the applicable rates on commodities produced in the South, moving on class rates, there are two important considerations which are not at all times given the proper weight in measuring the relativity of the class rates applicable in the South and from the South to Official Territory and within Official Territory.

It should be noted first that the scale of class rates prescribed in the Southern Class Rate Investigation have been modified since the decision in that case as follows:

1. A reduced scale of class rates between points in [fol. 3486] the South for distances of 200 miles or less. These rates are compared with the prescribed class rates in Appendix A to Witness Morris' Exhibit No. 15 and there is no need for duplication here.

2. Class rates (intrastate) between points in Kentucky as covered by Intrastate Class and Commodity Rates in Kentucky, 223 I. C. C. 109.

3. Interterritorial class rates between points in Kentucky and Official Territory as covered by Commonwealth of Kentucky vs. A. & W. Railway, 213 I. C. C. 297.

4. Interterritorial class rates between Virginia and North Carolina and Official Territory as covered by North Carolina Corporation Commission vs. A. C. & Y., 213 I. C. C. 259 and Class Rates Within the State of North Carolina, 238 I. C. C. 225.

And second, that the Southern Classification ratings (in the classification) on innumerable articles are lower than on the same articles in the Official Classification. In addition, the less carload exception to classification ratings on some 3,500 items in the Southern Classification, applicable within and generally between the South and Official Territory. Examples of these ratings and the rates for a given distance will be shown later.

These lower classification ratings are of importance when the relative rate levels are considered, especially since, for [fol. 3487] the most part, a very large proportion of the heavy commodities move on specific commodity rates, or mileage scales which are relatively lower than like commodity rates or mileage scales in Official Territory.

The statement is made at page 26 of prepared statement of Witness Hart that "at least 95 per cent of the carload traffic, so far as ratings are concerned, normally moves on rates definitely related to first class rates." Just what is meant by this statement is not entirely clear. It certainly cannot mean 95 per cent of the total carload traffic moving in Southern Territory since it has been shown by exhibits of record the tonnages and revenues on the several I. C. C. Commodity groups, which indicate otherwise.

I now refer to Witness Saunders Exhibit No. 86, for the proponents, which shows the tons of freight originated in the Southern Region for 1941 as follows:

[fol. 3488]

Commodity	Tons Originated	Per Cent of Total
Bituminous Coal	54,122,680	32.27
Lumber, Shingles, and Lath	9,366,182	5.58
Manufactures & Misc., N. O. S.	5,863,307	3.50
Pet. Oils, Refined, etc.	5,949,231	3.55
Gravel and Sand	11,500,777	6.86
Pulpwood	7,094,921	4.23
Stone, Broken, Ground or Crushed	9,752,332	5.81
Fertilizers, N. O. S.	4,862,849	2.90
Phosphate Rock, Crude	6,499,938	3.88
Cement, Natural or Portland	3,761,959	2.24
Products of Mines, N. O. S.	3,706,539	2.21
Petroleum, Crude	2,812,918	1.68
Cotton in Bales	1,195,793	.71
Logs	2,327,494	1.39
Iron Ore	3,541,804	2.11

Paperboard, Pulpboard, & Wallboard	1,313,816	.78
Posts, Poles & Piling	1,325,675	.79
Tobacco, Leaf	504,052	.30
Box, Crate, & Coop. Mat.	987,685	.59
Oranges & Grapefruit	791,679	.47
Prod. of Forests, N. O. S.	1,003,724	.60

Of the Commodities listed above the following do not move on rates "definitely" related to the class rate structure:

Commodity	Per cent of total
Bituminous Coal	32.27
Lumber and Logs	6.97
Gravel, Sand, Broken Stone	12.67
Pulpwood	4.23
Iron Ore	2.11
Total	58.25

[fol. 3489] There are other commodities included among those listed in Saunder's Exhibit No. 86 which move on mileage rates or on specific commodity rates from point to point, not related to the class rate structure.

Witness Hart stated (page 26 of his prepared statement):

"A careful analysis of the ratings on various classes of traffic shown in this section, that in Section 3-B, further discounts the belief by many that the movement of carload traffic in Official Territory is preponderantly on rates in the classification proper."

[fol. 3490] I know of no one who holds to that statement.

By Chairman Aitchison:

Q. Which part of the statement?

A. The statement I quoted.

Q. Mr. Hart's prepared statement?

A. Mr. Hart's statement.

Q. Do you dispute the belief by many that the movement of carload traffic in Official Territory is preponderantly on rates in the classification proper?

A. Rates based on classification ratings in the classification.

Q. You accept that or reject it?

A. I say I know of no one that really holds to such a position.

Q. How about Mr. McCollester?

A. If I may go further I think maybe Mr. McCollester will agree with me.

On the other hand the opinion is held, and, seemingly, quite proper, that the preponderant movement of carload traffic in Official Territory is on rates which bear a relation-

ship to the class rate structure. This may mean on the exact classification rating basis or an exception to the classification which sets a definite relationship with the class rate structure.

It seems entirely proper to include manufactured iron and steel in any consideration of such subject. While the [fol. 3491] Commission prescribed a mileage scale on manufactured iron and steel, yet that scale was predicated on the 5th class rates adjusted to take care of short-hauls and the extra longhauls. The following is taken from Witness Saunders Exhibit No. 86:

Eastern District 1941

Cars Originated	Per Cent of total cars
Manufacturers & Misc. N. O. S.	15.78
Iron & Steel, 5th Class, N. O. S.	7.57
Petroleum Oils, Refined, etc.	2.68
Autos and Auto Trucks, etc.	2.20
Scrap Iron and Scrap Steel	1.91
Automobiles (Passenger)	1.58
Fuel and Road Oils, etc.	1.47
Mill Products, N. O. S.	1.03
Machinery & Boilers	.93
Iron & Steel, 6th Class, N. O. S.	1.41
Iron & Steel, Pipe Fittings, etc.	1.21
Total	37.79

The commodities listed specifically by Witness Saunders represent 75.3 per cent of the total cars originated in the Eastern District. The remaining 24.7 per cent represents movements of commodities which are, individually, less than 1 per cent of the total. It would seem proper to add [fol. 3492] such 24.7 per cent of the total listed above of 37.79 per cent making grand total 62.49 per cent of the total carload movement in Official Territory, which moves on class rates or rates definitely related thereto.

Even if one uses the relative per cent of the commodities listed on the Saunders Exhibit, which represent 75.3 per cent of the total cars moved, then the per cent which can be stated as cars moving on rates related to the class rate structure would be 50.1 per cent, (75.3 into 37.79) of the total of 75.3 per cent.

A like comparison of cars originated in Southern Territory, also taken from Saunders Exhibit No. 86, indicates a reverse situation as shown by the following:

Commodity	Per Cent of Total Cars
Bituminous Coal	23.10
Lumber, Logs, Piling, Box Matl. etc.	11.37
Sand, Gravel, Broken Stone	8.36
Pulpwood	3.90
Fertilizers, N. O. S.	2.83
Phosphate Rock, Crude	2.66
Cement	2.15
Iron Ore	1.30
Total	55.67

In addition to those last listed above, there are others which might be included. Of the total listed commodities on the Saunders Exhibit, which represent 75.3 per cent of the total movement in the Southern Region, the commodities [fol. 3493] shown (representing 55.67 per cent of 100 per cent) equal 73.9 per cent of the commodities listed by Witness Saunders. It is quite likely that carloads originating in the South, moving on rates not bearing a definite relationship to the class rates would not equal 73.9 per cent of the total carload movement but possibly is something over 60 per cent of the total carload traffic originating in the Southern Region.

In view of that showing, one must of necessity disagree with the statement of Witness Hart on page 27 of his prepared statement when he says: "It is sufficient to say that comparisons made in these three sections clearly show that the transition in the two rate structures (Southern and Official) has brought about a rate pattern that is practically identical in both territories."

Rate Studies: In connection with Section 3-B of Witness Hart's Exhibit No. 88 the statement is made at page 23 of his prepared statement: "This exhibit, Section 3-B, lists important commodities produced in the South the level of rates on which, both territorially and interterritorially, are specifically related to the first class rates."

On pages 1 to 5 of my exhibit I have included each commodity shown on page 1 to 10 of Section 3-B of Exhibit No. 88 and have shown the ratings (which are also taken from Exhibit No. 88, except where errors were found therein) for Southern, Official and from the South to Official [fol. 3494] Territory. Opposite these ratings there is shown in column 4, rate for movement within the South for 743 miles, under the K-2 scale of Docket No. 13494; Column 5, rate for movement in Official Territory for a distance of 743 miles under the Appendix E scale of Docket No. 15879; Column 6, rate for interterritorial movement from the South to Official Territory based on an average first class rate of 198 cents per 100 pounds; Column 7, rates based on 110 per cent of the Official Territory level.

I selected 743 miles for the purpose of making rate comparisons for the reason that said distance represents the average distance of all points shown on sheet 3 of Section 2 of Witness Hart's Exhibit No. 88 wherein he shows the first class rated and distances from representative points in the South to six representative destinations in Official Territory.

An analysis of the commodities named on pages 1 to 5 will show that in a number of cases the more important commodities now enjoy rates within Southern Territory which are lower than rates within Official Territory. It will also be noted that in a number of cases the same level of rates prevails from the South as is effective in Official Territory. In some few cases rates actually lower than the Official Territory level prevails from the South to Official Territory [fol. 3495] In Paper, Official-Illinois Territories to South, 234 I. C. C. 81-95, the Commission said: "The record does not establish that complainants are unduly prejudiced. The northbound interterritorial rates are on a basis at least 10 per cent higher than those applicable within Official Territory, and the mere fact that the southbound rates exceed those in the opposite direction does not prove that undue prejudice exists. The northbound rates which had been voluntarily established by respondents were permitted by the Commission to become effective over protests filed by complainants herein."

Mention is made of the paper decision for the reason that rates from the South to Official Territory have been established on that basis and in other cases rates actually lower than 110 per cent of the Official Territory are in

effect. A study of the individual commodities listed on pages 1 to 5 with the same commodities listed in Appendix E of Witness Morris' Exhibit No. 15 will show that the Commission has prescribed the basis now in effect, or something higher, in numerous instances.

It is my understanding of the testimony adduced by the proponents that they are more interested in the class rate structure since manufactured goods move on the class rates or on rates related to the class rate structure.

By Chairman Aitchison:

Q. May I go back to your preceding sentence, where you [fol. 3496] speak of Appendix E of the Morris Exhibit 15?

A. Yes sir.

Q. Were those class rates or commodity rates? We do not have the exhibit before us.

A. Those are both class and commodity, but generally they represent the commodities which are covered on pages 1 to 10 of Witness Hart's Exhibit, Section 3-B.

Q. We don't have that before us, either.

A. Well, those are on percentages or column rates and they are duplicated on pages 1 to 5 of my Exhibit No. 173.

Q. Were they published in the classification as percentages or are they part of this list of several hundred pages?

A. No, they are separate and apart from the 3500 items that I previously mentioned. They are specific commodities and generally on carloads, as is indicated on pages 1 to 5 of my exhibit.

Chairman Aitchison: All right.

The Witness: Except where I show less than carload.

A careful examination and analysis of the individual commodities and the prevailing rates thereon will indicate that the Southern shippers have at this time rates on a very favorable basis and the rate structure from the South is designed to force the use of certain raw commodities by manufacturers in the South.

[fol. 3497] For instance, the level of rates on hides from the South to Official Territory is actually higher than the level of rates on leather. Shoes produced in the South have relatively lower rates within the South and from the South to Official Territory than are applicable within Official Territory.

Of the 128 separate ratings on articles shown on pages 1 to 5 of my exhibit there are 52 which enjoy rates which are: First, actually lower than within Official Territory; second, the same as the level in Official Territory; third, based 110 per cent of the Official Territory level or closely approaching said percentage.

As to many of the remainder, there are circumstances surrounding the movements thereof which explain the rate levels or the disinterest of the actual shippers in movements to Official Territory. For instance, there is production of malt liquors in the South and the northbound level is the same as the southbound level. No shipper in Atlanta, Georgia, as an illustration, ships malt liquors to Cincinnati, but producers in Cincinnati do ship malt liquors to Atlanta.

Now, referring to packinghouse products. Such commodities are produced in the South, but the larger production is possibly by the major packers who have plants in the several rate territories. We have no knowledge of any Southern packer attempting to ship packinghouse products to Cincinnati although the rates thereon are exactly the same [fol. 3498] from the Southern producing points as are the rates from Cincinnati to their points. Cincinnati does ship packing house products to various points in the South. And in this connection, and seemingly contra-wise to the policy of keeping raw materials in the South so as to be manufactured into finished products, I direct attention to the decision of the Commission in Live Stock to and from the South, decided August 11, 1942, I. & S. Docket No. 4779 and related cases, in which the various Southern states complained under Section 1 in Docket No. 28450 (disposed of by the Commission in the decision previously mentioned), complained of the rates on live stock within the South; from the South to Official Territory; from Western to Southern Territory; and, from the West through Southern to Official Territory.

Earlier in this statement I indicated that there was more than one level of Southern Territory rates. I had reference to the northbound rates as compared with the southbound rates. In I. & S. Docket No. 4413, involving rates on wrapping paper and paper boards and which case was mentioned previously, the Commission refused to prescribe the northbound level on southbound movements. This results in relatively higher rates from Cincinnati to points in the South

than are applicable from producing points in the South to Cincinnati. This is shown on page 6 of Exhibit 173.

By Com. Alldredge:

Q. That was because of the operation of the Fourth [fol. 3499] Section, wasn't it?

A. No, sir.

Q. Well, how did it come about?

A. Sir?

Q. How did it come about?

A. The Commission refused to give us the same rates southbound as the carriers had voluntarily published northbound.

Q. You mean from Cincinnati?

A. Yes, sir.

Q. You said that they could ship from the South to Cincinnati for lower rates than people in Cincinnati could ship into the South, is that right?

A. That is correct, as shown by page 6 of my Exhibit.

Q. Wasn't that caused by the observance of the Fourth Section at the border points?

A. No, sir. There is a quotation from that decision on page 10 of my prepared statement.

Page 6 shows rates from the Southern producing points, which are on the Official Territory level, and rates from Cincinnati to the same Southern Territory points. The rates from Cincinnati are on the Southern Territory level.

At page 42 of Witness Hart's prepared statement he indicates that he does not join with those who have in the past proposed the destination level theory of rate construction and under such position he would be willing to see the [fol. 3500] southbound rates, from Cincinnati, as an illustration, be made on whatever level that is applicable northbound. To this extent we join those for whom Mr. Hart speaks.

The average from the five Southern points to Cincinnati as shown on page 6 is 39.2 cents while from Cincinnati to these origin points the average rate is 49.6 cents per one hundred pounds. When consideration is given to the fact that Cincinnati must import its woodpulp from the South and Southwestern pulp mills it will be apparent as to the burden under which Cincinnati labors in trying to move paper to Southern points when it is known that these various

Southern points have pulp mills located adjacent to their paper mills.

Up to the present time Cincinnati has been able to compete on a somewhat equal basis with the Southern mills, on traffic destined to Central Territory points due to the present level of rates on woodpulp maintained by the Southern railroads in competition with the import rate on foreign pulp via Baltimore.

By Chairman Aitchison:

Q. Are those commodity rates involved here?

A. The rate that I refer to as being presently maintained as a commodity rate. I do not contend that it is directly involved here, but what the carriers plan to do will be involved here because they are making them a column rating directly related to first class.

[fol. 3501] Q. In the classification?

A. No, sir, in the exceptions to the classification.

Q. They are not involved here.

A. Maybe not directly involved.

However, the Southern railroads plan to cancel the present basis and publish rates averaging 12 cents per 100 pounds higher than the present level. This will place Cincinnati at an average rate disadvantage of from 12 to 15 cents per 100 pounds to Chicago, Illinois, as an illustration, as compared with the rates from Mobile, Alabama, to Chicago, Illinois.

It might be added that the rates from these Southern paper mill points cut-back for various distances in the South and apply as maximum to the intermediate territory. The rate disadvantage is not the whole story because the lower the water content of the woodpulp the higher the cost thereof. The paper mills located near the pulp mills are not required to remove as much water as is the case on pulp shipped to distant point.

Pages 8 to 13 of my exhibit are supplementary to pages 1 to 5. On pages 1 to 5, as previously explained, the commodities used by Witness Hart in his Exhibit No. 88 were shown. On pages 8 to 13 there has been shown commodities which are not included in the Hart Exhibit No. 88. Testimony has been given heretofore by the parties as to certain [fol. 3502] classification exception items which were published effective September 15, 1940, and which were origi-

nally covered by the I. C. C. Docket No. 28550. That investigation was discontinued. These reduced ratings were referred to in testimony by Witness Kerr for the Southern railroads and they have been shown in part by Witness Morris in his Exhibit No. 15. These numerous reduced ratings, which have been mentioned as numbering 3,500, cover a total of 132 printed pages in the Exceptions to the Southern Classification. On pages 8 to 13 of my exhibit I have selected one item from each page of the Exceptions tariff and similar treatment has been given to these items as was done on pages 1 to 5 of my exhibit.

Ratings have been shown for movements within Southern and Official Territories and rates have been indicated for a movement of 743 miles within the South and within Official Territory as was done on pages 1 to 5. There is also shown rate for a movement from the South to Official Territory as well as a rate based on 110 per cent of the Official Territory level. In connection with the items shown on pages 8 to 13 it will be noted that in 95 per cent or more of the cases the actual rates within the South are lower than within Official Territory. Further, the rates for interterritorial movements are substantially lower than the rates for equal movements within the Official Territory. Rates based on 110 per cent of the Official Territory rates would require [fol. 3503] substantial increases in the present interterritorial rates, as indicated in the last column on pages 8 to 13, with few exceptions.

With respect to the ratings and rates on pages 8 to 13 it seems pertinent to mention the fact that on every item show—it is possible for a Southern shipper, south of Cincinnati, to ship to or receive articles from Official Territory points under these ratings on a lower basis than is applied from or to Cincinnati. And the items indicated are far from complete as there has been shown only about 100 or more ratings, of a possible 2,000 or more where the same situation would prevail.

It would also seem to be in order to say, with respect to the articles included in the Southern Exceptions and which I am presently covering, that they are, generally speaking, manufactured articles or the class of merchandise that the present investigation is intended to cover. It appears unnecessary to say that Cincinnati, as one illustration, should be here complaining rather than our Southern friends.

Time has not permitted studies of the involved matters to the extent that a full and complete answer could be given to each and every allegation or statement made by those proposing drastic changes in our rate structure. The Commission will appreciate the situation faced by shippers in general during the past two years. Commercial organizations have been called upon to perform numerous added duties in the war effort. Car loading and unloading effici- [fol. 3504] ency matters; the prevention of loss and damage; and, lately, the numerous orders of O.D.T. have required an ever increasing amount of time and effort. Industry has switched from commercial production to essential materials for the war effort and the transition has called upon the ingenuity of our manufacturers who are not prone to permit anything to interfere with their movements in the direction headed. This is why we asked originally that the present investigation be indefinitely postponed and it explains why our manufacturers are not here today defending themselves from the attacks which are being made on the rate structure under which they have operated these many years.

I do have some additional studies on specific commodities and I now refer to page 14 of my exhibit. This page covers rates on brick.

By Chairman Aitchison:

Q. That doesn't move on class rates at all, does it?

A. It is copied from an exhibit already of record, your Honor.

Q. All right, it may have gotten in there, but does it move on class rates?

A. They do not.

Chairman Aitchison: Continue.

The Witness. It contains rates and distances taken from different pages of Exhibit No. 88 of Witness Hart. It [fol. 3505] clearly demonstrates the fact that the rates within the South are very much lower than the rates within Eastern Trunk Line Territory.

By Chairman Aitchison:

Q. That is the rates on brick?

A. That is right. I was referring to that particular

page. It seems unecesssary to comment further on the showing made by this page.

One other example on brick. Pages 15 and 16 of my exhibit is a study of the same character as is page 14, but covers rates within Central Territory as compared with rates within Southern Territory. Here again it is shown that the rates within the South are, mile-for-mile, lower than the rates on brick in Central Territory. It should also be noted that the rates prescribed by the Commission in I. & S. Docket No. 1885, 88 I. C. C. 543, and used by Witness Hart in his Exhibit No. 88, are not the present rates within the South. But regardless of whether one uses the I. & S. 1885 scale or the current rates, the answer is the same. The Southern brick level is the lower.

My next comparison covers cement. This is shown by page 17 of my exhibit. At 360 miles the rates within Southern and Official territories are the same, which distance represents, generally, the maximum haul. They are likewise the same at 200 miles which is the average haul within the South. They are also about the same at 160 miles which is the average haul in Official Territory. As a [fol. 3506] matter of information, I have shown the movements for May 27, 1942, within the South and Official Territory as indicated on Exhibit No. 14 of Witness Aitchison. The last specific commodity which I have covered is coke. This is shown on page 18 of my exhibit. This page compares hauls in the South for distances ranging from 59 miles to 744 mi[illegible] or an average of 325 miles. The average rate within the South is $2.88 per ton as compared with $3.03 in Official Territory for an average of the points shown of 325 miles. All rates shown were taken from pages of Witness Hart's Exhibit No. 88. At the bottom of the page there is shown, for information, the movement of coal and coke within the two rate territories. Coke is now shown separately on Exhibit No. 14.

Exhibit No. 14 of Witness Aitchison offers some interesting information on carload movements. While reference might be made thereto for figures shown therein, it appeared desirable to take certain information therefrom and this has been done on page 19 of my exhibit. This page shows cars originating in Official Territory destined to Southern Territory and cars originating in Southern destined to Official Territory for May 27, 1942. It will be noted that in only one of the Commission Commodity

Groups were there more cars from Official to Southern than from Southern to Official Territory. Cars originating in the South and destined to Official Territory exceed those [fol. 3507] originating in Official and destined to Southern Territory by 4,980 cars.

The last page, No. 20 of my exhibit, is a statement showing the tons originated and revenue thereon by commodity groups for the Eastern District and the Southern Region. The figures are from Statement Q-500 for the year of 1941. There has been added the average earnings per ton for each commodity group and the per cent of the South of Official Territory earnings on the same group, and, also the average earnings for the total tons originated.

If this page is considered along with page 19 of my exhibit, an interesting picture is presented. On three of the six commodity groups, the earnings on tons originated in the South are in excess of the earnings on tons originated by Eastern District carriers. Taking all tons originated and the revenue thereon, it will be seen that the average earnings per ton in the South is $3.57 as compared with $3.80 per ton for the Official Territory, that is the Eastern District. At the same time the average haul in the South is 25 per cent greater than in Official Territory and when such fact is considered, the greater earnings per ton on the three commodity groups in the South is entirely or practically explained and indicates, generally, the lower level of rates in the South.

In conclusion, I would like to say that my study of the rate structures at this time further convinces me of the correctness of the statement of the Commission in cases [fol. 3508] decided heretofore that "the distribution of the transportation burden in Southern Territory is different than for the Official Territory." If changes in rates are made for one group of commodities it simply calls for a revision, to equalize the burden, on another group. And last, I would like it to be understood that what I have said with respect to the South versus Official Territory has equal application as regards the Southwestern and Western Territories versus Official Territory.

Mr. Chairman, I have one additional statement to make on behalf of the brick industries, just a short statement.

By Chairman Aitchison:

Q. How does the brick industry enter into it?
A. In connection with classification.
Q. Is brick classified?
A. Yes, sir.
Q. What class?
A. The different classes, according to the different kinds of brick.

Chairman Aitchison: Proceed.

The Witness: On behalf of the Ohio-Kentucky Associated Industries, consisting of manufacturers of clay products located in Southern Ohio and Northeastern Kentucky, for which organization I am traffic manager, I would like to indicate for the record that we are opposed to the proposal [fol. 3509] of the American Trucking Association as regards proposed classification formula and other suggestions offered by witnesses Jackson and Waring. The members of the Ohio-Kentucky Associated Industries produce sewer pipe, wall coping, flue lining, drain tile and various kinds of brick and related articles. They are, generally speaking, members of the American Refractories Institute and I am a member of the traffic committee of the Institute. I have been associated with the clay product industry for about 17 years.

The clay product industry is opposed to any changes in the rates or ratings on their products. The suggestions of the motor common carriers should be disregarded on clay products because, first, relatively a very small proportion of the clay products traffic is handled by the motor common carriers; second, present rates and ratings are reasonably satisfactory to the industry and the railroads; third, the ratings on these clay products are the result of many years of experience and meet the needs of the industry in general, and are fairly related to the ratings on related articles of commerce having the same general classification charateristics.

The rates on clay products do not, generally, lend themselves to a relationship with the class rate structure. By far the greatest movement of clay products are on rates made on the group and differential basis, and which have been approved in decisions of this commission.

[fol. 3510] It has been stated that the Exceptions to Classification ratings are not involved. Possibly not directly,

but indirectly they are and in certain cases a specific relationship to the class rate structure has been prescribed and certainly where such is the case then the rates are involved. This is particularly true as regards sewer pipe and related articles. We object to any change in the class rate structure for this reason, among others.

By Mr. Sater:

Q. Have you any further comment to make?
A. That completes my direct testimony.

Mr. Sater: The witness is offered for cross-examination. Oh, I beg your pardon. I offer in evidence Exhibit 173.
Chairman Aitchison: Without objection, it is received.

(Exhibit 173, Witness Ellison, received in evidence.)

Chairman Aitchison: Any cross-examination? Before you begin—who is cross-examining, now?
Mr. Bee: I have a few questions, and I believe Mr. Wagner wants to cross-examine.
Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Proceed. Go ahead, then, Mr. Bee.

Cross-examination.

By Mr. Bee:

Q. Mr. Ellison, please refer to page 5 of your statement. [fol. 3511] A. Yes, sir.
Q. You understand those 3500 classification exception items apply in the Southwest?
A. No, sir. Within the South and from the South or between the South and Official Territory.
Q. Please refer to page 10.
A. Yes, sir.
Q. Will you tell me any rate that is on the same level from the Southwest as is in effect in Official Territory?
A. No, but the page that you refer to covers paper, and paper from the Southwest to Official Territory is 110 per cent of the Official Territory level.
Q. You say, "It will also be noted that in a number of cases the same level of rates—" now, on the same page, at the bottom of the page, please, "A careful examination

and analysis of the individual commodities and the prevailing rates thereon will indicate that the Southern shippers have at this time rates on a very favorable basis and the rate structure from the South is designed to force the use of certain raw commodities by manufacturers in the South." Will you tell me where that applies in the Southwest?

A. Paper.

Q. On one commodity, paper?

A. That is the only one I can think of at the moment, Mr. Bee.

[fol. 3512] Q. Do you know of any such rates in the State of Oklahoma on paper?

A. No, I do not.

Q. Now, on page 11, "Shoes produced in the South have relatively lower rates within the South and from the South to Official territory than are applicable within Official territory." Can you tell me where that applies from the Southwest?

A. No, I can't.

Q. On the same page, "We have no knowledge of any Southern packer attempting to ship packinghouse products to Cincinnati." You do know that Southwestern packing houses attempt and do ship to Cincinnati, don't you?

A. Yes, sir.

Q. All right, then, how, please, on page 18, can you make the statement that, "I would like it to be understood that what I have said with respect to the South versus Official Territory has equal application as regards the Southwestern and Western Territories versus Official Territory."

A. Yes, sir, that is my opinion.

Q. Although none of these statements are true as between the Southwest and Official, and still the same condition exists?

A. Mr. Bee, you pick on a few commodities there. Now, if I cared and had time to do it, I could have picked out many that are moving from the Southwest that are not [fol. 3513] moving from the South.

Q. Will you tell me any rate within the Southwest or from the Southwest to Cincinnati that is on as low a basis as the rates within the Cincinnati Territory?

A. Yes, sir.

Q. One.

A. Sulphur.

Q. Is there any production in the Cincinnati Territory of sulphur?

A. There is.

Q. You are taking a commodity that must, of necessity, move from the Southwest?

A. No, I am not.

Q. Where is there any other production of sulphur except in Louisiana and Texas?

A. Well, it is imported.

Q. What?

A. It is imported.

Q. Well, it is imported through coast points somewhere?

A. It formerly was.

Q. Do you know of any now?

A. Not now.

Q. But you say, "I would like it to be understood that what I have said with respect to the South." Now, will you tell me one statement in your whole testimony relative [fol. 3514] to the South, with the exception, perhaps, of paper, that refers to the Southwest versus Cincinnati?

A. I think I did cover it. I will again, if you want me to.

Q. Just one, outside of paper.

A. I said that I made my investigation with respect to the South, and my general experience indicates to me that the same situation exists. Now, to ask me to pick on particular commodities at this time, I couldn't do that.

Q. Do you know how far a soap manufacturer located at Dallas, Texas, can ship towards Cincinnati, as contrasted with the Cincinnati soap manufacturer shipping towards Dallas?

A. I can tell you how far I think he should attempt to come towards Cincinnati, in view of the fact that we have one of the largest soap plants almost in the United States located there.

Q. How far should he come?

A. Oh, probably some place the other side of St. Louis.

Q. Well, if you found that he couldn't get into the southern part of Missouri, would you say that your conditions were equal with your conditions you speak of in the South?

A. Yes, I would still say that.

Mr. Bee: That is all.

The Witness: That is my opinion.

Chairman Aitchison: Mr. Wagner.

By Mr. Wagner:

Q. Mr. Ellison, the top of page 3 of your prepared [fol. 3515] statement, you say, "it appears that this is a 'destination level' proceeding."

A. Yes, sir.

Q. Where did you get that theory?

A. That is my conclusion, after hearing the testimony of numerous witnesses.

Q. Can you name some?

A. Well, it is just—general impression that I gathered from the witnesses testifying at Indianapolis, and this was prepared following those hearings.

Q. I notice on page 12, you say that Witness Hart indicates that he does not join those who have in the past proposed destination level theories, so it was not Mr. Hart, is that correct?

A. No, not Mr. Hart.

Q. At the bottom of page 5 you qote some language used by Witness Hart. Let me paraphrase that and see whether you agree or disagree with it. At least 95 per cent of the carload ratings or rated items normally move on rates related to first class. Would you say that is approximately correct?

A. I would say it is not correct and it isn't any different than my understanding of what he intended. The statement is not, to me—it wasn't entirely clear, and I tried to show by the commodities in Witness Saunders' exhibit [fol. 3516] that it just wouldn't fit the picture.

Q. In other words, you assumed that he meant tonnage?

A. No, carload shipments.

Q. Which is tonnage, isn't it?

A. Sure.

Q. But if he did not mean tonnage but meant ratings, items, that 95 per cent of the items——

A. Ratings and items where, Mr. Wagner? The classification?

Q. Wherever you find them, either in the classification or in the exceptions, that 95 per cent of the items rated in the classification moved on percentages of first class.

A. No, I don't agree with that and I have set that forth in my statement here, showing why that isn't true.

Q. You show tonnage, don't you?

A. Well, this represents carloads.

Q. You understand what I mean by items or ratings, don't you?

A. Well, I am not so sure, but everything I can think of, except with a relatively few exceptions, are rated in the clasification and many of those are rated in the exceptions.

Q. Yes.

A. Now, if I am thinking in terms of either one or the other, the statement that is made here, I can't agree with it.

Q. Then will you estimate approximately how many of the percent of the rated items, items or commodities that [fol. 3517] carry ratings—take furniture, for instance. It might have 30 items that are either moving on classification proper or exceptions, is that correct? Do you understand what I mean?

A. The furniture is moving on exception rating [redacted]yes.

Q. And there might be 30 or more items under the furniture description?

A. Yes.

Q. So there would be 30 items, not tonnage, items.

A. Yes.

Q. Now, if you go through the classification, you get practically all the ratings or items or descriptions of commodities, don't you?

A. Yes.

Q. Now, if you would go through the classification and treat each item separately, how many percent of the items in there would you say move on percentages or class, either in the exceptions or the classification proper?

A. Not for 95 per cent, certainly.

Q. Would you want to estimate?

A. No, I wouldn't care to do that.

Q. On page 14 of your statement you say that you have shown in your exhibit, beginning at page 8, about 100 of the possible 2,000 instances where, on September 1, 1940, exceptions were made to the clasification. How did you pick those 100 items?

[fol. 3518] A. By taking those that indicated the situation that I was trying to show; in every case where it was favorable to the South, unfavorable to Official Territory.

Q. Well, you took one item from each page, didn't you?

A. That is right, except——

Q. How did you pick that one?

A. On the basis that I explained.

Q. In other words, you picked it for the objective you were reaching, is that it?

A. Right.

Q. If, for instance, Mr. Hart shows in his exhibit 1800 or 1900 of those 2000 items, which would you consider more representative, your hundred or his 1800 or 1900?

A. I don't consider that Mr. Hart showed any 1800 or 1900 of the items that are covered by pages 8 to 13, inclusive.

Q. He shows in his exhibit 1800 and some items out of the 2000.

A. No, it is 3500 all together, and the 2000 that I am talking about, I am intimating there that there is possibly 2000 items in the 132 pages of printed matter, that I could have showed the same situation.

Q. Those are less than carload items that you show, are they not?

A. They are, yes, sir.

Q. There were 3000 less than carload or carload and less [fol. 3519] than carload?

A. 3500. I haven't counted them but I will take the word of those that have. It is 3500 items less than carload.

Q. It is my understanding 3500 included both carload and less carload, but let it stand.

On page 8, can you give us a more accurate definition for the top of the first column reading "Class rating"?

A. I have shown a percentage. 150 would mean 1½ times first; 100 would mean first class.

Q. Is that the class rating in the South as such?

A. No.

Q. It is the exception rating, isn't it?

A. No, this is the classification rating.

Q. On page 8?

A. Yes, sir. Under the heading of which is that, what you are referring to?

Q. I say Southern.

A. Under the Southern?

Q. The first column showing that.

A. That is the Southern Exception rating.

Q. Now, on page 18 of your prepared statement you say, "If changes in rates are made for one group of commodities it simply calls for a revision, to equalize the burden, on another group." Will you cite instances where that has been done by the Commission?

[fols. 3520-3521] A. No, not offhand; but I know what would be called for in connection with any upheaval of the Southern class rate structure on the basis sought here.

Mr. Wagner: That is all.

Chairman Aitchison: Any other cross examination? (No response.) Do you have anything further in direct?

Mr. Sater: Nothing of this witness.

Chairman Aitchison: You may stand aside, then, Mr. Ellison.

The Witness: Thank you.

(Witness excused.)

Chairman Aitchison: We will suspend until 9 o'clock tomorrow morning.

(At 10:17 o'clock P.M. an adjournment was taken to 9 o'clock A.M. the next day, being Tuesday, November 24, 1942.)

[fol. 3522]

Hotel Deshler,
Columbus, Ohio,
November 24, 1942.

Met, pursuant to adjournment, at 9 o'clock a.m.

Before Division 2 of the Commission

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding; Hon. Walter M. W. Splawn, Commissioner; Hon. J. Haden Alldredge, Commissioner; and a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by Mr. John J. Murphy, South Dakota Public Utilities Commission; Mr. George McConnaughy, Public Utilities Commission of Ohio; and Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul O. Carter, Examiner; W. J. Koebel, Examiner; T. Leo Haden, Examiner.

Appearances:

As heretofore noted and the following additional:

Leonard F. Mongeon, 101 West 31st Street, New York City, New York, appearing for Retailers Transportation Committee.

Theodore T. Turnbull, Tallahassee, Florida; Jerry W. Carter, Tallahassee, Florida; and T. C. Maurer, 227 West Forsyth Street, Jacksonville, Florida, appearing for Railroad Commission of Florida, and State of Florida.

Milton P. Bauman, 140 Cedar Street, New York City, New York, appearing for State of New Jersey.

[fol. 3523] Leslie Lacroix, Third and Main Building, Evansville, Indiana, appearing for Evansville Chamber of Commerce.

Frederick W. Burton, 55 St. Paul Street, Rochester, New York, appearing for Rochester Chamber of Commerce, and Association of New York Canners, Inc.

Proceedings

Chairman Aitchison: Shall we come to order.

Mr. Sater: May I proceed, your Honor?

Chairman Aitchison: Proceed.

Mr. Sater: Call Mr. McMahon to the stand, please.

J. V. McMahon was sworn and testified as follows:

Direct examination.

By Mr. Sater:

Q. Mr. McMahon, will you give the Commission your full name, please.

A. J. V. McMahon.

Q. Where do you reside?

A. Youngstown, Ohio.

Q. What is your occupation?

A. I am traffic manager of the Youngstown Chamber of Commerce, representing the industrial and commercial establishments of Youngstown, Ohio.

Q. Please tell the Commission how long you have been engaged in handling transportation and traffic matters.

[fol. 3524] A. My experience in connection with the handling of transportation and traffic matters covers 30 years, and has involved both railroad and industrial traffic work.

Q. What has been your experience, a little more specifically, with freight rates and freight rate structures?

A. Well, we have participated in practically every major rate case affecting our territory, because one of our objects is that we endeavor to protect the interests of our members in connection with the adjustment of freight rates and classification matters.

Q. Directing your attention now, to Witness Jensen's Exhibit No. 7, introduced in this proceeding, do you have any comment that you desire to make thereon?

A. Yes, sir.

Q. Please proceed.

A. Mr. Jensen made the suggestion that the State of Ohio should be split, and a dividing line established between Trunk Line Territory and Official Territory, with Trunk Line rates 5 per cent higher. We of course would not want to see that accomplished, because it would simply set up another rate barrier, affecting our interterritorial rates and the rates to Official Territory. We have keen competition with other manufacturers who are located right in Official Territory, and we certainly want to continue to maintain the parity that we have at the present time. We [fol. 3525] advocate no change in the Official Territory rates. There are other good reasons also why we would not want to see that done. Our railroads, as far as we are concerned, are primarily the Central Freight Association roads, and as far as dealing with rate matters is concerned, we do not feel that we have very much in common with the Trunk Line and the New England roads. Our interest, in other words, is in Central Territory.

Q. Comment was made in that exhibit with respect to placing the line described by Mr. Jensen at the edge of the Allegheny Mountains, the western edge of the Allegheny Mountains. What are the traffic conditions in and around Youngstown with regard to topography?

A. Why, the terrain in that territory is practically level. Some of the finest railroad systems in the country operate through that district. There are water level routes along Lake Erie, and very heavy tonnages are hauled with one engine. The ruling grade from Pittsburgh to Youngstown,

Ohio, is .3 per cent. In addition to the rail service, we also have a large amount of trucking, and we have over-night service to Toledo, Ohio, and Detroit, Michigan, 225 miles away. There is no reason that we can see why the same level of rates should not apply in that district, as well as Western Ohio.

Q. Have you any other comment to make at this time, for the benefit of the record?

A. Not other than merely to say that our traffic is pre-[fol. 3526] ponderantly westbound, while the inbound traffic, merchandise traffic, originates—a good deal of it at least—in the East.

By Chairman Aitchison:

Q. You are now speaking, I presume, of course, of traffic which takes class rates,—are you?

A. Yes, sir. I would say that probably 50 per cent, or 60 per cent, perhaps, of our merchandise traffic, originates in the eastern cities, and it all would be subject to a higher basis of rates if this proposal were approved.

By Mr. Sater:

Q. Have you some further statement to make, Mr. McMahon, or does that complete your direct?

A. On that particular subject, that is all I have to say; yes, sir, but I would like to add a further comment.

Q. Proceed.

A. I have one comment to make with respect to the proposal to establish a dual scale of rates for less than carload and carload traffic. Our shippers would not favor a dual scale of rates for less than carload traffic and carload traffic. The present rates have proven very satisfactory, over a period of 11 years, and we see no reason why any such suggestion should be followed. Nor do we favor a uniform classification, either. We think that having classifications for the various territories is the better way to handle the situation. There are many commodities which are manufactured in one territory, that are not manufactured in another territory, and in our opinion they need [fol. 3527] separate treatment. We feel that exceptions are very necessary, in handling the myriad number of proposals that come before the carriers today; and that they

should have that additional means of establishing rates for the handling of the traffic.

Q. If you have something further to say, please proceed.

A. Well, I just have this one further comment that I would like to make for the record, and that is this, that we feel that our class rates are already sufficiently high; they were much higher than they were after August 26th, 1920, the 40 per cent advance; and we feel that we are paying sufficient rates at this time, and that there should certainly be no increase in our class rates. I believe that is about all I have to say.

Q. Now there is just one further question, I believe, Mr. McMahon. You stated that you are representing here the Youngstown Chamber of Commerce,—Youngstown, Ohio.

A. Yes, sir.

Q. Will you please state whether or not you are also authorized to speak on behalf of the Chamber of Commerce of Toledo, Ohio.

A. Yes, sir; so far as advocating no change in the rates is concerned, I am also authorized to speak for Toledo.

Mr. Sater: That concludes the direct examination of the witness, and the witness is at this time offered for cross-examination.

[fol. 3528] Chairman Aitchison: Cross-examine. (No response.) There seems to be no cross-examination. You are excused.

(Witness excused.)

Mr. Sater: Call Mr. Brown to the stand, please.

ANDREW H. BROWN was sworn and testified as follows:

Direct examination.

By Mr. Sater:

Q. Mr. Brown, will you give your full name to the Commission, please.

A. Andrew H. Brown.

Q. Your residence?

A. Cleveland, Ohio.

Q. Your occupation?

A. I am transportation commissioner of the Chamber of Commerce of Cleveland, Ohio. I have occupied that position for five or six years. For 17 or 18 years prior to that time I was performing substantially the same duties as I am at the present time, although not under the same title.

Q. You were present here, and heard the testimony of Mr. McMahon; is that correct?

A. Yes, sir.

Q. The witness who just preceded you on the witness stand.

A. Yes, sir.

Q. Do you agree with his testimony?

A. Yes.

[fol. 3529] Q. How would you reconcile that statement, Mr. Brown, with the existence of the presently-constituted rate break line at the Ohio River?

A. Pardon me, Mr. Sater, but I think that there must be a gap in your list of interrogatories, there. I have not made any statement as yet about rate break lines. Answering your preceding question a little further, may I say that I agree with the statement which was made by Mr. McMahon with regard to Mr. Jensen's exhibit, in connection with the rate break line. I may have some slighfly different reasons for that, however, and I would like to explain them at this time.

Q. Proceed.

A. As far as my position is concerned on breaking the Official Territory rates on any line and particularly on a line starting from Cleveland and running through Akron down to Portsmouth—I believe that is what Mr. Jensen suggested—I would have to make a certain assumption. So far in this proceeding I have found no one who is particularly concerned about the class rates within Official Territory, except possibly the motor carriers, and their rates of course are not in this case. We certainly are reasonably satisfied with them, and our carriers are not complaining about them, and no one has attacked them. Therefore I would make the assumption that the 100 per [fol. 3530] cent would be substantially the Eastern scale, if not the exact Eastern scale. Then if we broke the territory at any line, let us say, the Cleveland-Akron line, we would be faced with a five cent increase in all of our

class rates and rates related thereto, directly related thereto, between Cleveland and Eastern points,—something which I do not consider justified. Now, after a very extensive hearing, in which I participated from beginning to end, including the preliminary negotiations, we broke down a rate break line which, roughly, followed the Buffalo-Pittsburgh-Wheeling line, the original Western Termini line; and we established a system of class rates, very severally increased, by the way, as compared with the former rates, the rates going into effect in December of 1931. They have proved reasonably satisfactory, and I would regard it as highly undesirable that we reestablish the rate break line. I find no physical or other reason why it should be moved west, let us say, from the Buffalo-Pittsburgh-Wheeling line, where it used to be, to a Cleveland-Akron-Huntington line. That is my statement, with regard to the rate break line, if the Commission please. Now you asked the question a moment ago as to how I reconcile that position with the existence of a rate break line at other boundaries of Official Territory.

Q. Yes.

A. I do not have to, for the reason that I do not support the existence of a rate break line if it can be shown that [fol. 3531] rate conditions do not justify it. Now if, under a proper showing, this Commission should find that the class rates within Southern Territory should be the same, precisely the same, we will say, as the Eastern Territory rates, you would have no rate break line. If they find that they should be higher, or lower, then of course you would have a rate break line, and there is no earthly way of avoiding some complications, where two different rate structures meet. Now, I want to go just a little further. A proper case, in my judgment, a proper proceeding, in which to alter a basic rate structure, is one which involves all of the rates. I cannot conceive that it is proper to change a principle of rate making, there being different principles as between Official, Southern, Southwestern and Western Territories, as has been fully described and pointed out here, without involving the entire rate structure. I have no objection whatever, however, to the elimination of a rate break line if it can be done, after a proper showing.

By Chairman Aitchison:

Q. We did not have all of the rates in the United States before us at the time we got rid of the Buffalo-Pittsburgh line, did we?

A. No, sir, you did not, but neither did you completely revolutionize a rate structure at that time. The same principles were used, but a great many difficulties were eliminated. I think that the two cases are entirely different. [fol. 3532] Q. Well, your experience has been such that you know of course that it is absolutely impossible for any tribunal whatsoever, short of heaven, to deal with all of the rates in the United States in one proceeding.

A. I think you are absolutely right about that, yes, Mr. Chairman, and I think that you have got more rates in this particular proceeding than you can handle.

Chairman Aitchison: Well, that may be. Is that all of the direct?

By Mr. Sater:

Q. Have you any further comment to make, Mr. Brown?

A. Why, I believe that is all that I wanted to volunteer, as far as my own statement is concerned. Perhaps you have some questions.

Mr. Sater: I offer the witness for cross-examination.

Chairman Aitchison: Is there any cross-examination of Mr. Brown? (No response.) There seems to be none. You are excused.

(Witness excused.)

Chairman Aitchison: Mr. Lacroix.

Leslie Lacroix was sworn and testified as follows:

The Witness: My name is Leslie Lacroix. I reside at Evansville, Indiana. I am at the present time, and have been for the past 20 years, traffic manager of the Chamber [fol. 3533] of Commerce of Evansville. All told I have had 33 years of railroad and commercial traffic experience, dealing with freight rates and traffic in general, with the exception of a short period during 1917-1918, when I was with the Freight Traffic Committee of the North Atlantic ports, which was a United States Railroad Administration

law committee. In this proceeding, if the Commission please, we are asking three things. In the first place, we are asking this Commission to abolish the Illinois Classification. In the second place, we are asking for a unification of classification ratings, or a consolidated classification, if you may put it that way,—and those two requests are somewhat related. However, the Illinois classification has 7300-odd exceptions to it, and as long as the Illinois classification is published as a separate entity, those exceptions will continue to be published to it. If we have a consolidated classification, or a unification of classification ratings——

By Chairman Aitchison:

Q. What was the second thing that you said you wanted, Mr. Lacroix?

A. The second request is for a unification of classification ratings, or the publication of one classification applicable in all territories.

Chairman Aitchison: We are having considerable difficulty in hearing you up here.

The Witness: I guess I had better proceed from there [fol. 3534] on, then, in my statement. Our second request, as I stated, is related to the first request. However, the Illinois classification has exceptions published to it, more than 7300 in number, providing exception ratings on certain commodities. If the Illinois classification is maintained, then the exceptions, published at this time to that classification, will continue to published. Should a consolidated or uniform classification be adopted, however, and the Illinois classification abolished, the present Illinois exceptions, as a separate entity, will not continue to exist, except as they might be published as exceptions to the consolidated freight classification. We feel, however, that that will give us a little better control over the exceptions that are issued to Illinois shippers, than we have at the present time. Now, as our third request, we are asking for a reduction in the level of the class rates in Southern Territory. We believe that the present class rates are too high in that territory. I am speaking specifically, now, of class rates within Southeastern Territory, what is known as Southeastern Territory.

Evansville, Indiana, is situated on the Ohio River, in southwestern Indiana. It borders on Kentucky, on the

south, and it is located 25 miles from the Illinois boundary line. We have manufacturers, jobbers, distributors, and a general line of firms in the jobbing business, in our city, [fol. 3535] that naturally market their products in the State of Illinois and in Southern Territory. So far as the distributors and jobbers are concerned, they are vitally interested in an equitable adjustment of rates into Illinois and into Kentucky, which two states are immediately adjacent to us. Our investigation of the Illinois classification has developed that it was established by an Illinois commission prior to the creation of the Interstate Commerce Commission. I have been unable to locate the first Illinois classification that was issued. I do, however, have with me No. 10, which was issued by the state authorities, the Illinois commission,—classification No. 10, effective in 1906. The 15th annual report of the Railroad & Warehouse Commission of the State of Illinois is dated December 1st, 1885. On page 13 thereof, in so many words, it speaks of the revision of the classification and maximum rate schedule, indicating quite clearly that the classification was in effect prior to that time. It is our own opinion, after investigation, and from our knowledge of the situation, that there might have been in 1885 a good and just reason for the state authorities of the State of Illinois to establish an Illinois classification. The Interstate Commerce Commission was at that time not in existence, and the Illinois shippers naturally had to look to some regulatory body for protection, and they therefore turned to the Illinois [fol. 3536] authorities. That classification, in addition to publishing certain ratings on articles, also published a maximum class rate scale for application within the State of Illinois. Subsquent to 1906 the state authorities ceased to publish the Illinois classification, and the railroad committee of the Illinois Freight Association, the classification committee governing the Illinois rates, published it for account of the carriers serving the State of Illinois.

Now at the present time there is an entirely different condition existing, in so far as the protection of Illinois shippers is concerned, than that which existed in 1885. We have highways traversing the entire State of Illinois, modern highways, and we have the advent of the motor carrier, assuring speedy delivery of merchandise. Also we have the airplane coming into wider operation. The old type of water transportation on the Mississippi and

Illinois Rivers, by the packets, has been superseded by barges and tugs. The railroads have streamlined their operations. We have competition between the different types of carriers at the present time which in and of itself assures the shippers of Illinois an opportunity to obtain the best rates.

By Chairman Aitchison:

Q. Mr. Lacroix, I am wondering if we did not give some consideration to the Illinois classification in the Section-13 cases which grew out of Increased Rates 1920.

[fol. 3537] A. Yes, you did in that case, Mr. Chairman, and we obtained some revision in the rates which improved our situation. However, in that decision you did make this statement,—and I quote, as I recall it; this is the substance of it at least—that the railroad authorities could, by wise judgment in the future, so take care of the rates between Indiana on the one hand and Illinois on the other hand, shipping into the State of Illinois, as to alleviate and remove the discriminations against the Indiana shippers. That is the end of the quotation, and that is substantially the statement that was made, I believe, as far as I can recall it. That appears in the Illinois Classification Case, Ex Parte 67, 55 I. C. C. 290, decided November 8, 1919. That proceeding was an investigation which was instituted by the Interstate Commerce Commision, at the request of the Director-General of Railroads.

Q. Well, did we not also give consideration to that matter in the Section-13 cases, following the 1920 increases,—or do you recall?

A. No, Mr. Chairman, not between Indiana and Illinois—at least not to my recollection. There was involved at that time, in 1920, a situation wherein Indiana interests sought rate reductions to Missouri River cities and territory adjacent thereto. At page 303 of the Illinois Classification case, Supra, the Commission said,—and I believe, Mr. Chair-[fol. 3538] man, that this is very pertinent to this Illinois situation—"The difficulties of the situation considered in this report show one of the most forceful illustrations of the advisability or necessary for uniformity in classifications." Now as I understand it, as I read the order, the exceptions to the various classifications are not involved in this proceeding.

Chairman Aitchison: Not unless they are published in the classification itself.

The Witness: Consequently, as most of our difficulty in shipping into Illinois is in connection with exceptions to the Illinois classification, we did not bring in any commercial witnesses to testify in that regard, fearful that after they got here they might not be permitted to testify. We do feel, however, that with conditions as they are in this 20th century, with the competition that exists between all types of carriers available to the shippers in Illinois, and with the Interstate Commerce Commission in operation, there does not at the present time exist a just reason for the maintenance of the Illinois classification. As a matter of fact, as we see it, the only reason why that classification is maintained at this time is to give the shippers of Illinois, and those shippers located in Illinois Rate Committee Territory, an unfair rate advantage over their neighbors in other states adjacent to Illinois Classification Territory. [fol. 3539] The Commission should put a stop to that practice, in our opinion. Illinois Classification Territory is specifically defined in Item 5, Section 7, of the Exceptions to the Illinois and Official Classifications, published by Agent Mercer, his tariff I. C. C. No. 501. The territory includes the southern portion of the State of Wisconsin, including Milwaukee and Madison, Wisconsin, on the north; on the west is bounded by the Mississippi River, extending from Dubuque, Iowa, on the north to and including Cairo, Illinois, on the south, including West Bank Mississippi River ports; on the south it is bounded by the Ohio River, extending from Cairo, Illinois, on the west, to the confluence of the Ohio and Wabash Rivers on the east, including Paducah, Kentucky; and the eastern boundary follows the Illinois-Indiana state line, which is the Wabash River, from the Ohio River to a point approximately ten miles southwest of Terre Haute, Indiana, and thence follows an imaginary straight line from there to a point about ten miles northeast of Danville, Illinois, where it meets the New York Central line running from Danville, crossing the state line at that ten mile point, extending north, due north, to Whiting, Indiana, including points in Indiana territory located in the Chicago Switching District, and then extending north along the shore of Lake Michigan to Milwaukee, Wisconsin. Therefore it will be seen that the

[fol. 3540] Illinois Classification today is an interstate classification as well as an intrastate classification. I believe that is all I have to say, now, in connection with the Illinois Classification.

Now, as to the unification of class rates and ratings, we feel that, as articles are packed alike, have the same fragility, the same weight per cubic foot, and generally speaking, the same value, there is no reason why we should not have one classification, and let the freight rates reflect the difference in transportation costs in the different territories. It would simplify the checking of rates, and we believe would be a progressive movement that might be a godsend to some rate clerks.

Now, as to the class rates, or the level of the class rates, in Southern Territory: We have been in intimate contact with that situation for the past 20 years, having participated in the Southern Class Rate Investigation, Docket No. 13494; and we feel that at that time the Southern class rates were not sufficiently reduced—the level of them, that is. The Southern carriers, in order to overcome the existing class rate level, have resorted to the practice of publishing commodity rates, less than carload and carload, and numerous exceptions to the Southern Classification. We believe that if the level of the class rates within the South were at a figure which would permit the traffic to move, except under very unusual circumstances and conditions, at the [fol. 3541] classification ratings provided in the Southern classification, there would be no necessity, except under very unusual circumstances and conditions, for the publication of commodity rates and exception ratings. The jobbers, distributors and others shipping into the South from Evansville, Indiana, are vitally concerned in a reasonable level of class rates in that territory. The only way in which we can attract assembly plants of automobiles, and distributing firms, the only way that our jobbers can maintain themselves in business, the only way that we can have, at Evansville, an active and live economic situation, is that we must have, to the fullest extent possible, a reasonable level of class rates; and we believe that the Commission should make some reduction in those rates. We are not advocating any specific reduction.

We have looked over the exhibit introduced by Mr. Jensen, and we have broken down the groupings on a map, and we note that he has split Southern Territory into two

groups, a 110 per cent group and a 120 per cent group, the latter group being all of Southern Territory south of a line extending north from Memphis, Tennessee, including all of Kentucky and a portion of Carolina and Tennessee. North of that line is the 110 per cent group, and south of that line is the 120 per cent group, Central Freight Association Territory being the 100 per cent or base territory. We [fol. 3542] question the advisability of splitting Southern Territory, and believe that a uniform level of class rates should be maintained therein,—with the exception of the Florida Peninsula.

I believe that concludes my general statement on direct, but I have prepared some exhibits which I desire to submit at this time. I have been talking so long that I almost forgot about them. The first exhibit which I wish to offer is a large exhibit with a summary on the front page, showing number of articles on which the rating is lower in the Illinois Classification than in the Official Classification, as shown therein. This applies on the articles, and not on the items. May I have the next exhibit number, please, Mr. Chairman.

Chairman Aitchison: 174.

(Exhibit 174, Witness Lacroix, marked for identification.)

The Witness: The next exhibit which I wish to introduce also has a summary on the front page, showing the reverse of the picture as shown by my Exhibit No. 174 for identification, in that this exhibit shows number of articles on which rating is higher in the Official Classification, than in the Official Classification, as shown therein.

(Exhibit No. 175, Witness Lacroix, marked for identification.)

The Witness: The next exhibit which I wish to introduce is a single-page exhibit showing comparison of the first [fol. 3543] class rates applicable in Illinois Territory, Western Territory Zone-1, and Central Freight Association Territory.

(Exhibit 176, Witness Lacroix, marked for identification.)

The Witness: The next exhibit that I wish to introduce—which is the last exhibit—is a list of wholesalers, jobbers and manufacturing firms located at Terre Haute and Evansville, Indiana.

Chairman Aitchison: Just a moment. Is it necessary to have that in the record? What difference does it make to us whether a particular firm is located at Evansville or not.

The Witness: We just wanted to show the Commission that there is a vast number of them, was all.

Chairman Aitchison: Your statement, which covers it in a general way, is all that is necessary.

The Witness: Very well, then, Mr. Chairman. I will not submit this last one. I would just like to say here that I am authorized to represent the Chamber of Commerce of Terre Haute, Indiana, in so far as our request for the abolition of the Illinois Classification is concerned.

By Mr. Hughes:

Q. Pardon me, Mr. Lacroix, but I did not get that last. Did you say, the Chamber of Commerce of Terre Haute, Indiana?

A. The Terre Haute Chamber of Commerce, yes, sir, in so far as we are requesting the abolition of the Illinois Classification. The communities of Terre Haute, Vincennes, [fol. 3544] and Evansville, Indiana, have been trying for a number of years very diligently to obtain some equitable basis of rates for shipping into Illinois Territory, with their competitors, like shipments by rail; but so far we have been unsuccessful to any material extent. Well, now, what is your pleasure as to this last statement, Mr. Chairman?

Chairman Aitchison: Why, I think it would be merely encumbering the record.

The Witness: Very well then. I will eliminate that. At this time I would like to offer in evidence my Exhibits Nos. 174, 175 and 176.

Chairman Aitchison: Without objection, they are received.

(Exhibits 174, 175 and 176, Witness Lacroix, received in evidence.)

Chairman Aitchison: Is that all.

The Witness: I would just like to comment very briefly, Mr. Chairman, on my Exhibit No. 176, the comparison of class rate scales. You will observe that when the shippers in Illinois elected to adopt a class rate scale, they chose the scale that had the lowest rates. In other words, they chose the C. F. A. scale, and did not choose the Eastern scale.

That is reflected in their classification. While it may not have been constructed in just that manner, nevertheless, the net result is that the Illinois Classification, where there [fol. 3545] are variations between the Illinois Classification on the one hand, and the Official and Western Classification on the other hand, is usually the lowest, lower than either the Official or the Western. By that I mean that if an article is rated lower in Official than in Western, the Illinois Classification takes the Official Classification rating; or if an article is rated lower in the Western than it is in the Official, the Illinois Classification takes the Western Classification rating. Now, as I stated before, that may not be the exact manner in which the classification has been constructed, but nevertheless the net result, as I look it over, is just exactly that. That is all I have, now, Mr. Chairman, and I am ready for cross examination.

By Chairman Aitchison:

Q. This C. F. A. scale that you mentioned here, is the Disque scale, is it?

A. Yes, sir, it is the Disque scale with the various increases and decreases—or rather, no. I beg your pardon? That has been superseded.

Q. By the Appendix E scale?

A. By the Eastern Class Rate Investigation scale, that revised the Disque scale.

Chairman Aitchison: Cross examine.

Mr. Grubbs: If the Commission please.

Chairman Aitchison: Mr. Grubbs:

[fol. 3546] Cross-examination.

By Mr. Grubbs:

Q. Mr. Lacroix, you stated, I believe, that that part of Southern Territory in which your natural market lies, is Kentucky; is that correct?

A. Why, that is true, yes, sir, in so far as our jobbers, brokers and distributors are concerned; but our manufacturing plants ship throughout the entire South.

Mr. Hughes: Pardon me, but I was not able to hear any of that last answer.

Chairman Aitchison: Read it.

(Answer read.)

By Mr. Grubbs:

Q. Now, Mr. Lacroix, where is there any disadvantage to any of the parties that you represent, in the present Southern rate structure?

A. Well, I think I can best illustrate that situation, Mr. Grubbs, by answering your question this way, telling you what I know about the difficulty that we had in getting the Chrysler Corporation to locate its assembly plant at Evansville, Indiana. With the Chrysler plant came a Briggs Body plant, because wherever Chrysler goes, Briggs goes also. That plant nearly went to St. Louis, Missouri, instead of to Evansville. The level of rates from Evansville to the South was considered, and the level of rates from Evansville to the Southwest was also considered. The plan was to ship from either St. Louis or Evansville to the Southwest [fol. 3547] or Southeast. We would have lost that plant on the basis of a comparative survey, St. Louis versus Evansville, of the class rates to those two territories, the Southwest and the Southeast. The only reason that we did obtain those plants, the Chrysler assembly plant and the Briggs Body plant, was because Mr. Graham and his brothers had built in Evansville a Graham-Paige plant,—two plants, as a matter of fact—and one of them was suitable for Chrysler, and the location of the other one was just six blocks away, so it was suitable likewise for the Briggs Body plant. Because of that special circumstance, that housing or warehousing situation—or rather, I mean to say, that factory situation, the Chrysler plant came to Evansville; but we were informed definitely that our rates were out of line with St. Louis.

Q. But is it not true, Mr. Lacroix, that your class rates to the South are generally lower than the rates from St. Louis to the South?

A. Yes, sir, that is true, Mr. Grubbs, but that is offset by the fact that St. Louis has lower rates to the Southwest; and the only reason that we have lower rates to the South than St. Louis is because as a general rule we are closer to the South. Our rates are on the K-2 scale from Evansville

to the South, and St. Louis traverses Central Freight Association or Illinois Rate Territory, in getting to the South; and many of our rates to the Southeast and to Carolina [fol. 3548] Territory are on an arbitrary over the K-2 scale, which gives them relatively a lower level of class rates, distance considered, than Evansville enjoys.

Q. The rates, however, were all prescribed from Evansville and from St. Louis by the Commission in the same proceeding; that is true, is it not?

A. Yes, sir.

Q. Now, Mr. Lacroix, there is just one other question, I believe, that I want to ask you, and that is this: I take it that you do not want the Commission in this proceeding to weaken the railroads by any action that it might take, do you?

A. Oh, not at all, sir, no, sir. I feel that you may recoup some of the loss in revenue that you would receive from a reduction in class rates, through your ability to eliminate some of the commodity rates.

Q. What rates do you have in mind, in making that statement, if any particular rates?

A. Well, I do not have any specific rates in mind. I do know this, however, that the entire Southern Territory is shot full of commodity rates. It is not like Central Freight Association Territory, where the vast preponderance of the traffic moves on class rates; and I attribute that difference to the fact that the level of the class rates in Central Freight Association Territory is such that it permits the traffic to [fol. 3549] move under those rates; while the level in the South is just the opposite.

Q. In general, then, if I understand you correctly, your thought is that we ought to increase our commodity rates and reduce our class rates; is that it?

A. I would go one step further than that, and I would say that if you increase the level of your class rates sufficiently——

Q. Just answer my question, please, Mr. Lacroix. Is that correct, or not?

A. That is not entirely correct, no, sir. I say, I would go one step further than that. I would say, if you decrease —or rather, I mean to say, if you increase the level of your class rates sufficiently, you can eliminate most of your commodity rates, except on commodities such as coal, iron

and steel, pig iron and so forth, and so on,—the basic raw materials.

Mr. Grubbs: Thank you.

Chairman Aitchison: Is there further cross examination?

Mr. J. R. Bell: Just one or two questions, please.

By Mr. Bell:

Q. Am I correct, Mr. Lacroix, in understanding that Chrysler, and the other affiliated organization of which you spoke, located plants in Evansville, Indiana, because of the lower initial capital cost of establishing the plants, [fol. 3550] irrespective of the freight rate adjustment, resulting from the presence of the two buildings that you mentioned, having been already constructed in Evansville?

A. I would say that the plants were located at Evansville because they were able to obtain the buildings there very economically,—yes, sir.

Chairman Aitchison: Well now, are you cross examining on the cross examination, now?

Mr. Bell: No, I am not, your Honor. I am cross examining on his testimony.

Chairman Aitchison: Not on his direct testimony.

Mr. Bell: Let me ask one other question.

By Mr. Bell:

Q. Mr. Lacroix, I understood you to state, in your direct testimony, that you distribute your manufactured products all over the South. Is that correct?

A. Yes.

Q. Referring by that, of course, to your city of Evansville, Indiana.

A. Yes.

Q. And I also understood you to say that you desire a reduction in your freight rates into the South, in order to facilitate that distribution; is that correct?

A. Would you state that again, please.

Mr. Bell: Read it, please.

(Question read.)

[fol. 3551] A. Well, there are other reasons of course, Mr. Bell, but then, that is one of the prime reasons, I would say, yes, sir.

Q. In so doing, have you made any computation of the manufacturing plants that are already located in the South?

A. Why, to some extent, yes, sir, although the type and kind of industry that is shipping into the South, is, generally speaking, not the same kind or type of industry that is located within the South.

Q. Do you consider that a reduction of your rates into the South, facilitating the distribution of your manufactured products in the South, would tend to foster the establishment of manufacturing plants in the South?

A. Yes, sir, I do, because apparently you have based your question upon a false premise. I am not asking only for a reduction in the class rates to the South, but I am asking for an entire reduction in the level of all class rates within the South; therefore it will accrue to the benefit of industries and shippers within Southern Territory, as well as at Evansville. We are located, when we are shipping into the South, in Southern Territory, and we are governed by the Southern Classification scale, and the Southern Classification on exceptions.

Mr. Bell That is all I have.

Mr. Hughes: I have just a question or two, if the Com-
[fol. 3552] mission please.

Chairman Aitchison: Well now, I think we ought to be able to confine this railroad cross examination to fewer counsel. You are all here on one side, and it is the usual practice for you to get together on your cross examination.

Mr. Hughes: I have but a question or two, sir.

Chairman Aitchison: Very well.

By Mr. Hughes:

Q. Mr. Lacroix, I understood you to say that in compiling the Illinois Classification it was the uniform practice to take the lowest rating in the Official Classification, and include it in the Illinois Classification. Was my understanding of your testimony correct?

A. No, sir, it was not.

Q. What did you say, just briefly, again, as to that, please.

A. What I said was that the net effect of what was done, produced that result, as far as the Illinois Classification is concerned.

Q. Well, it was because of that statement that I was somewhat surprised at seeing your Exhibit No. 175 here, which has the effect of negativing your other statement.

A. No, Mr. Hughes. Pardon me. This Exhibit 175 does not have the effect of negativing my previous statement, because, as I testified before, there are exceptions to that, although there are mighty few. As you see, in my Exhibit 175 there are 18 out of approximately 14,000 ratings, or [fol. 3553] 14,000 commodities in the Illinois Classification, the Official Classification and the Western Classification.

Q. Well, Mr. Lacroix, are your Exhibits Nos. 174 and 175 a complete list of the items which they purport to show?

A. Yes, sir, they are a complete list—well, not of all of the items, no, sir, but of all of the articles, they are. In other words one article may be packed in three different manners, and have a different item rating, depending upon the packaging. We have only shown the articles—that is, the commodities.

Q. And you have omitted none, then, as to these two exhibits; is that correct?

A. Yes, sir, that is right. We have endeavored to include everything. We searched the classification, and then rechecked it.

Mr. Hughes: That is all.

Chairman Aitchison: Is there further cross?

Mr. McCollester: I would like to ask the witness just one question, if the Commission please, which I will confess goes rather to the cross examination, although but slightly; and I would like to ask it merely to get the record straight. I might say to you, Mr. Lacroix, that I am counsel for the Chrysler Corporation, although not in this proceeding.

By Mr. McCollester:

Q. Is it not a fact that the Chrysler rate difficulty at Evansville was not one that arose from any relationship [fol. 3554] of class rates from Evansville and St. Louis, but was one that arose because Ford and Chevrolet had assembly plants at St. Louis, and the railroads had established low commodity rates from those assembly plants,

as well as from assembly plants at Atlanta, Georgia, and Memphis, Tennessee.

A. Well, you might state it that way, yes, sir. In other words, that was one of the factors, yes, sir. However, whether it was class rates or not, whatever the rate structure was, they took into consideration the entire rate structure. Undoubtedly they considered the matter of commodity rates, but of course when we refer to commodity rates, we get right back to the very same point that I made a moment ago here, that if the level of the class rates is reduced, you can get rid of a number of the commodity rates.

Mr. McCollester: Thank you.

Chairman Aitchison: Is there any further cross examination? (No response.) Unless you have something further to offer, Mr. Lacroix, you are excused.

The Witness: No; that is all. Thank you.

(Witness excused.)

Chairman Aitchison: Shall we resume with Mr. Bell.

CHARLES E. BELL resumed:

Direct Examination (Cont'd).

[fol. 3555] By Mr. McCollester:

Q. Mr. Bell, when you interrupted your testimony yesterday, you had, I believe, covered in general the development of the rate structures in the North and in the South and made general reference to the different theories of those respective rate structures. You had pointed to the fact, in general terms, that the rates on raw materials and low-grade commodities had been usually made on a lower basis in the South than in the North. Have you prepared the exhibit which has been marked as your Exhibit 164 for identification, for the purpose of illustrating this fact?

A. I have.

Q. Will you please proceed, then, to comment on that exhibit.

A. Page 1 of Exhibit 164 for identification, is a comparison of mileage scales on pulpwood applicable in Southern

Territory, with those applicable in Official Territory,—and when I refer to Official Territory, I mean the Central Eastern and Great Lakes Regions, without the inclusion of New England. I do not think that the exhibit needs any particular comment. The rates are self-explanatory. There is, however, one thing that I would like to point out, and that is this, that according to the Freight Commodity Statistics, the pulpwood movement in the South in 1928 was 609,000 tons; in 1939 it had increased to 4,053,000 tons; and in 1941 it had further increased to 7,094,000 tons. In comparison, the movement in the Central Eastern and Great Lakes Regions was 679,000 tons in 1928; in 1939 it [fol. 3556] had dropped to 224,000 tons, and in 1941 it had dropped still further to 183,000 tons.

Now, taking the paper industry in the South, the items of printing paper, paper bags, wrapping paper, paper board, pulpboard, and so forth, embraced in Freight Commodity Statistics items 651, 694 and 695: In 1928 the tons originating in the Southern Region were 314,354 tons; in 1939 that movement had increased to 1,251,000 tons, or 398 per cent of the 1928 movement; and in 1941 it had increased to 1,810,000 tons, or 576 per cent of the 1928 movement. Now I can give the figures for the Central Eastern and Great Lakes Regions, but in terms of percentage, the 1939 tons originating in those territories were 76 per cent of the 1928 movement; and in 1941, 96 per cent of the 1928 movement.

Page 2 of the exhibit is a comparison of mileage scales on logs. These rates are used in publishing specific commodity rates to various manufacturing points, and they apply also on the billets and other kinds of timber used in the manufacture of furniture, and other products of the South.

Page 3 of the exhibit is a comparison of mileage scales on lumber, applicable in Southern Territory, with those in Official Territory. I want to point out here that sheet 19, section 3-D of Mr. Hart's Exhibit No. 86, I believe it is, makes comparison of Southern and Official ratings; but Mr. Hart has erroneously progressed his scale after 900 [fol. 3557] miles on the basis of one cent for each 25 miles. The Southern Compromise Lumber Scale that he refers to, and which is shown in my exhibit, was really progressed, based on one cent for each 40 miles. Now taking it, for

instance, at 1150 miles, Mr. Hart's scale would show a rate of 48 cents, which is four cents higher than the correct rate.

Page 4 of the exhibit is a comparison of specific rates on pig iron, carload, from Birmingham, Alabama, to pig iron consuming points in Southern Territory, compared with similar rates from furnace points in Official Territory to pig iron consuming points in that territory. The destinations shown in my exhibit include most of the destinations which were used in the Southern Governors case, where stoves and fire hydrants are manufactured, and in addition, representative points shown in the Rand-McNally Atlas under the heading of Trading Centers, where it is indicated that iron castings or other iron articles are manufactured, or where furnaces are located.

Q. Where foundries are located?

A. Where foundries are located, yes, sir. Now on pages 5 and 6 of the exhibit are the same rates that are shown on page 4, arranged in mileage sequence.

Page 7 is a comparison of mileage scale rates on furnace material, applicable in Southern Territory. Really, they are applicable intrastate, but it has long been the [fol. 3558] custom of the Southern lines to establish special furnace material scales for the benefit of furnaces in the Birmingham, Alabama, district. It will be observed that the rates on iron ore, for example, are lower than the ex-lake rates on ore shown in section 3, from the lake ports to Youngstown and Pittsburgh,—using those points as representative. Now section 2 shows the fluxing limestone rates with representative rates in C. F. A. Territory.

[fol. 3559] The Witness: These fluxing limestone rates are shown in Section 2 of the exhibit in Official Territory. The C. F. A. coke scale, of course, is the same as it is in the South, and a comparison of that scale with the special furnace material rates in the sixth column will indicate the differences. I just merely call attention to the fact that it is the policy of the Southern lines to establish even lower than what you might call the normal scales on this furnace material.

Page 6 is a comparison of the mileage rates on scrap iron and scrap steel. There is no comment——

By Mr. McCollester:

Q. Page 8, you mean, Mr. Bell.

A. Page 8 it is, yes, sir. There is no need to compare any of the specific rates, but I do call attention to the fact that sheet 23 of Mr. Hart's Exhibit 86, Section 3-D—

Mr. Wagner: 88.

The Witness: —purports to make a similar comparison, but Mr. Hart has indicated his Official level is based upon 70 per cent of the manufactured iron and steel basis, but we have been unable to check his rates. We have taken occasion to check the rates shown in my exhibit with the rates and the basis for rates used in Official Territory, and I can say that the rates shown in my exhibits are correct.

Mr. Norman: What page were you talking about? Just a moment, what page were you talking about then?

[fol. 3560] By Mr. McCollester:

Q. What page of which exhibit?

A. Page 8.

Mr. McCollester: Page 8 of Mr. Bell's exhibit.

The Witness: Mr. Wagner called my attention to the fact that Mr. Hart's exhibit was No. 88 instead of 86.

On page 9 will be found a comparison of the mileage scales on brick in Southern Territory compared with Central Freight Association and Trunk Line Territory. The last sentence in Note B on that page, reading, "Rates on common brick are made 80 per cent of the rates shown in each scale", is in error. The rates in Official Territory were originally prescribed on common brick, 80 per cent of the rates on other kinds of brick, but in Docket 26515, the Commission authorized the increase of the common brick rates to the full 100 per cent basis, but they did prescribe the 80 per cent basis on paving brick.

Now, on page 10 of the exhibit, I have undertaken to show the specific rates on brick between points in C. F. A. and Trunk Line Territories which are shown on sheets 11 and 12, Section 3-D of Witness Hart's Exhibit No. 88, compared with rates made by use of the mileage scale in Southern Territory. In checking over the exhibit, after I got here, I found several errors in the comparison in

the Southern and the rates produced by the Southern brick scale; and I would like the permission to have those cor-
[fol. 3561] rections copied into the record.

Mr. McCollester: May that be done, Mr. Chairman?

Chairman Aitchison: Yes. Of course, we have 65 copies of these we have got to make corrections in.

Mr. McCollester: Yes, but the exhibits having been all distributed——

Chairman Aitchison: Can't we have this sheet reproduced and clipped to the exhibits?

Mr. McCollester: Off the record.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: All right, copy them in.

(Which corrections are as follows:)

Corrections to Page 10

In Figures in Columns Captioned

"Rates Produced by Southern Scale"

From	To	Now Reads	Should Read
Pittsburgh, Pa.	Toledo, O.	250	230
Danville, Ill.	Terre Haute, Ind.	160	130
	Toledo, O.	260	240
	Youngstown, O.	290	360

[fol. 3562]

Brooklyn, Ind.	Detroit, Mich.	270	340
Brazil, Ind.	Pittsburgh, Pa.	190	360
	South Bend, Ind.	210	200
Canton, O.	Alliance, O.	170	90
	Cleveland, O.	190	130
	Evansville, Ind.	420	380
	Lima, O.	200	190
	Portsmouth, O.	220	230

Chairman Aitchison: On the record, now.

The Witness: Page 11 is a comparison of the mileage scales on line in Southern Territory with those in Official

Territory. I find there are some discrepancies between my figures and those shown on sheet 24, Section 3-D of Witness Hart's Exhibit No. 88. It is apparently due to the manner in which Mr. Hart has provided for the Ex Parte 123 increases. But we have checked our rates and we believe them to be correct.

By Mr. McCollester:

Q. That means you believe Mr. Hart's are in error?

A. Yes, sir. That is covered by both pages 11 and 12 of the exhibit.

Page 13 is a comparison of the mileage scales on sand, gravel, crushed stone and slag. I call attention to the [fol. 3563] fact that two scales are shown under the Southern scales, Note A, one marked "Prescribed" and the other "Present." The prescribed rates are those prescribed by the Commission in Docket 17517. The carriers have made voluntary reductions in the rates which are shown in the column headed "Present." Those comparisons also extend over on page 14.

Page 15 is a comparison of the mileage scales on fertilizer and fertilizer material applicable in Southern Territory, compared with those in Official Territory. Mr. Hart has made similar comparisons on sheet 18, Section 3-D of his exhibit, in which he has undertaken to also show the averages of the scales up to and including 900 miles. Here, again, the Southern scales on page 15 are shown as "Prescribed" and "Present," the same explanation being applicable as in connection with the sand and gravel scales on pages 13 and 14.

Mr. Hart's averages show that what he terms the normal rates, which are the prescribed rates shown in my exhibit, average 16 per cent of the K-2 scale, compared with 14.7 per cent for the C. F. A. scale and 16.3 per cent for the Trunk Line level. However, the present rates in the South are 13 per cent of the K-2 scale compared with the 14.7 per cent in C. F. A. and 16.3 per cent in Trunk Line Territory.

Q. Those per cents are per cents of the first class rates?

A. Of the K-2 first class. I have been using, in my [fol. 3564] exhibit, the percentage of the Appendix E scale. Mr. Hart used the percentage of the Appendix K-2 scale in the Southern case.

By Mr. Hart:

Q. Mr. Bell, the 13 per cent you show there is the present scale in the South and is not the scale prescribed by the Commission.

A. That is what I thought I said, Mr. Hart.

Q. Well, that is shown on my exhibit, isn't it?

A. Yes, it is shown on your exhibit.

Page 16 compares the rates on suphuric acid in tank cars. I have shown the so-called Copperhill scale and the L & N scale, which are also shown in Mr. Hart's Exhibit 88, sheet 4 of Section 3-D. I call attention, however, to the fact that the scale shown in Mr. Hart's exhibit was apparently increased 10 per cent under the Ex Parte 123 increases. As a matter of fact, the Southern carriers are using the so-called L & N scale as a basis for publishing specific rates in Southern territory, and that scale was increased only 5 per cent. Therefore, Mr. Hart's exhibit overstates the scales to that extent.

By Mr. McCollester:

Q. That is the scales in Southern Territory?

A. In Southern Territory. Now, the basis in Southern Territory provides for shipments in steel drums, 125 per cent of the scale used for tank cars and in carboys, 150 per cent.

By Mr. Norman:

Q. Is the L & N scale used to any stations except [fol. 3565] L & N stations?

A. I didn't get that, Mr. Norman.

Q. Is the L. & N. scale used to any stations except L. & N. stations?

A. Yes. That so-called L. & N. scale is, as increased 5 per cent, as I have explained, is now used for publishing specific rates in Southern Territory.

In that connection, I have been unable to check a great many of the specific rates shown on sheet 4 of Section 3-D of Mr. Hart's exhibit, and apparently it is due to the fact that the scale in Southern Territory is used for what they call workable distances and that the carriers have not yet completed the work of revising the specific rates to conform to the L. & N. scale, as revised.

May I say something off the record, please?

Mr. McCollester: Off the record.
Chairman Aitchison: Yes.

(Discussion outside the record.)

The Witness: The rates on page 17 are comparisons of specific rates on sulphuric acid between points in Official Territory as shown on sheet 2, Section 3-D of Witness Hart's Exhibit No. 88, compared with the rates made by use of the mileage scale in use in Southern Territory.

That completes the comparison of the mileage scales, but page 18 is intended to show how much more important, [fol. 3566] both in tonnage and revenue, these low-grade commodities are in the South than in the North, and as the carriers are making a lower level generally on what constitutes 33 per cent of the originated tonnage than the same level in the Great Lakes and Central-Eastern regions, in my mind it follows that they must maintain higher rates on the higher-grade traffic, a higher level of rates on the high-grade traffic.

By Mr. McCollester:

Q. Now, when you say that page 18 shows how much more important the tonnage on these low-grade commodities, low-rated commodities, is in Southern than in Official, you don't mean that the aggregate, actual tonnage of these commodities is greater in Southern than in Official, but that it bears a higher ratio to the total originated tonnage of the Southern railroads than is the case in Official Territory?

A. That is correct. The exhibit shows that in the South, the ratio is 33 per cent and in the North it is 13¾ per cent.

By Mr. Wagner:

Q. How much?
A. 13¾, 13.75.

By Mr. McCollester:

Q. Now, Mr. Bell, in connection with the testimony of record here, to the effect that the fact that average unit costs of all traffic may be the same or may be variously related in [fol. 3567] two territories does not establish that the rates on any particular portion of the traffic in two territories

should be on the same levels if the transportation burden is distributed differently in the two territories both because of differences in the pattern of the rate structure and also differences in the nature of the freight moving into two territories. Have you prepared Exhibit 165——

A. I have.

Q. To show facts indicating differences in the distribution of the transportation burden in different rate sections of the country, particularly the South and the North?

A. I have.

Q. Now, will you proceed to comment upon that exhibit. Describe the way it was prepared.

A. Well, first, let me say that the amount of freight handled in each section of the country must provide revenues to maintain the railroads serving that section; and when a proposal is made to change a rate level on any part or all of traffic involved in a given territory, the Commission must consider the effect upon the balance of the traffic burden in the territory involved. If, as to certain traffic, equality of one territory with another is sought, the general rate structure will be thrown out of line unless the transportation burden is similarly d tributed in other territories. However, if there is a radical dissimilarity between given [fol. 3568] territories in the distribution of the general traffic burden, the basis for seeking to equalize the rates on one class of traffic with another ceases. This can only be determined by an analysis of the traffic handled and the proportion that each class in each territory contributed toward the total transportation burden in that territory.

A comparison of supposed average costs in given territories proves nothing as to the comparative cost of handling any particular portion of the traffic, unless the distribution of the different classes in the two territories is the same. If one territory has a larger proportion of low-grade freight than in another territory, it may serve to bring down the average costs in the former to an equality with the latter. Moreover, where there is a different composition of traffic in a given territory and the difference in the volume of the traffic of the different kinds of freight, and there is a difference in the rate stucture which distributes the transportation burden differently on one kind of freight versus another in that territory, the rate structure in that territory may be expected to contribute to the transportation burden in a dif-

ferent proportion than it might be expected to contribute in some other territory.

By Chairman Aitchison:

Q. What do you mean by "transportation burden"?

A. By the transportation burden I mean the amount of [fol. 3569] revenue that each character of freight or traffic contributes to the expense of the operation of the railroads in that section, wherever it is. The traffic may be distributed as between pigiron and cotton or as between merchandise traffic and fruits and vegetables. Now, as to how much each of those commodities the revenues must contribute to the expense of the operation of the road. Now, that is what I mean by transportation burden.

By Mr. McCollecter:

Q. What would be the total transportation burden?

A. The total transportation burden would be the sum total of the revenue produced as compared with the sum total of the operating expenses.

Q. In each territory?

A. In each territory.

Q. In other words, it is the total expense of maintaining the transportation machine in each territory?

A. Stated in a different way, that is correct, yes.

Chairman Aitchison: That is quite different from what he said.

Mr. McCollester: I don't think so.

Chairman Aitchison: Yes, he said it was the sum total of the revenue produced as compared with the expense, which is a ratio.

The Witness: It is the cost of maintaining, Mr. Chair- [fol. 3570] man, the transportation machine, and they can only be maintained by the revenues that are obtained from the traffic.

By Mr. McCollester:

Q. Well, the burden is the expense and the distribution of the burden is the way the revenue is provided to defray that expense?

A. I accept that as probably a better explanation. It is what I had in mind. Now, it wouldn't follow that because

the average costs were the same, that the cost of handling a higher-grade manufactured product in one territory would be the same as in another, unless the traffic moved in equal proportions with all traffic in the two territories for equal distances and in the same kind of trains. Now, for the reasons I have just stated, I have considered it essential to make a thorough study of the composition and distribution of traffic in the territories involved.

By Chairman Aitchison:

Q. Pardon me, Mr. Bell. Wouldn't the traffic burden, according to your definition, vary on an individual railroad day by day?

The Witness: Read the question, please.

(Question read.)

The Witness: It would vary on an individual railroad and it would probably vary on the different railroads in the same section, but in the aggregate, in the course of a year, you would know what the average was on the different kinds of traffic; and we haven't gotten to the point where you are [fol. 3571] keeping your cost day by day.

By Mr. McCollester:

Q. Now, will you proceed with your description of the way Exhibit 165 was prepared and with your comments on that exhibit.

A. Well, as the title page shows, it was prepared in five parts, as explained on the title page. Now, the arrangement of part 1 is shown on page 1 of the exhibit, and it covers the distribution of the revenue tonnage of anthracite and bituminous coal and coke in carloads.

By Chairman Aitchison:

Q. Is it possible to take one of these commodities and treat it as typical without going through each one?

A. I am not going through each one, Mr. Chairman. I am trying to shorten it as much as I can. I do want to comment a little on coal and coke.

Chairman Aitchison: Very well.

The Witness: The figures are taken in part 1, also those in parts 2 and 3, are taken from the freight commodity

statistics, which does not make separations by rate territories; with the result that rate territories are included in the same region very often. For example, the Santa Fe and Southern Pacific are included in the Central-Western region. Now, the geographical distribution of the coal tonnage, shown on sheet 4, is confined to freight originating and freight terminating in the various states, and of course [fol. 3572] doesn't afford the same kind of portrayal as is shown on sheet 2.

By Mr. Norman:

Q. Mr. Bell, may I ask you on page 3, sub-part 2 you show there. What is that? Sub-part 1, sub-part 2?

A. Part 1 of the exhibit, as is indicated on the title page, Mr. Norman, covers anthracite and bituminous coal and coke.

Mr. Norman: And sub-part 2 would be, then, the general group of commodities. I see. Thank you.

The Witness: Is that clear?

Mr. Norman: Yes.

By Com. Splawn:

Q. Is this an analysis of the traffic and the applicable rates within each of the regions or territories?

A. I don't know——

Q. An analysis of the traffic and the revenue yielded by the going rates?

A. Yes, sir. That information, as shown in part 1, covering coal and coke, and it is shown by the general commodity groups as described in the Commission's freight commodity statistics in part 2 and in part 3. Those groups are broken down to the specific commodities and commodity groups as shown in the freight commodity statistics.

Q. How does this exhibit differ from the similar exhibits produced or submitted in the Advance rate cases in an effort to show that no advance should be made in certain regions [fol. 3573] because they were already getting enough?

A. I don't recall just how those exhibits were in the Advance rate cases, but I will say that these were made without any reference to those exhibits and simply for the purpose of showing the facts as to what the tonnage and revenues are in the respective regions.

Q. If we took an exhibit like this exhibit in the Advance rate case, could we grant uniform percentage increase in the face of these facts, in the face of such an analysis as you made here?

A. Of course, you were granting an increase for the entire United States.

Q. Well, we have done that several times, but I am asking you——

A. I don't know what case you refer to.

Q. I am asking if this sort of analysis would be of any assistance to us in sustaining such an increase, such a uniform increase?

A. It wasn't prepared for that premise, Mr. Commissioner, but merely to show the situation as to the distribution of the traffic and tonnage and revenues in the respective regions.

Q. And your conclusion, from that showing, is that there should be no uniform class rate, uniformity of class rates?

A. That conclusion can be drawn and I think really should be drawn, because our contention is that, on the present conditions, that your territorial basis of rate-[fol. 3574] making must continue.

Q. My question is, couldn't you just as logically draw the conclusion in the Advance rate case that no uniform advance should be made?

A. That was strictly a revenue measure.

Q. Well, aren't you talking here in terms of revenue?

A. No, sir, we are talking about what, as I understand it, purports to be a plan where you are going to prescribe a permanent rate structure for all of the United States and without regard to any general increases which may result. It is not a revenue rate case.

Q. But if we should find such a thing possible or desirable, as you have outlined there, wouldn't we have to bear in mind the revenues of the carriers and the adequacy of the return?

A. Well, of course, I think in any general increase that you should bear that in mind.

Q. In considering relationships we have to bear that in mind, as you say. Now, the contention is being made here that there should be uniformity in classifications, and perhaps in rate levels, and you are telling us that there should not be because the consist of these freight trains in different territories is different.

A. The composition of the traffic is very, very different, yes, sir.

Mr. McCollester: Well, our point, Mr. Commissioner, goes [fol. 3575] just a little bit further than that. One of the points which we assume will be urged here in support of the claim that the class rates as a whole in the South should be no higher than the class rates in the North, is that there is *no*, as has been shown on the basis of Dr. Edwards' exhibits, no substantial difference in the unit costs per hundred pounds, per hundred miles, in the two territories. Now, this exhibit is, among other things, designed to show that the mere fact that you have average unit costs which may be computed to be the same in the two territories cannot lead us to the conclusion that the freight rate levels on any portion of the traffic, like the class rate traffic as distinguished from everything else, should be the same in the two territories, because the make-up of the total traffic upon which the carriers in each territory must rely for their total expenses vary greatly. In other words, the North has a much greater volume of coal, much greater volume of ore, much greater volume of other things. The South has different commodities, and therefore to single out, simply because the average unit cost of all traffic must be the same, single out the class rate traffic and say those should be equal would, on the basis of this showing, I think, when it is analyzed, demonstrate that either it would bankrupt the Southern railroads, or, if you accomplish uniformity by raising the class rates in Official Territory, it [fol. 3576] would subject Northern shippers to freight rates which would be excessive, considering the conditions in Official Territory.

The Witness: Shall I proceed, Mr. Commissioner?

By Mr. McCollester:

Q. Continue, Mr. Bell.

A. Well, going back to the form of the exhibit, page 36 of the exhibit shows the explanation of the state groupings found on page 4. I might call attention to the small percentage of tons originated in the states west of the Mississippi River, that is, that bituminous coal was only 5.3 per cent of the total originated in the United States, whereas, the tonnage of coal and coke originated in the Trunk Line-C. F. A. states, including those of Pocahontas, designated

Pocahontas, was 82.23 per cent of the total United States tonnage, and the total originated in the South was 12.9 per cent.

I think in any study of the traffic or distribution, coal and coke should be considered independently of other traffic, for many reasons. It is unlike any other traffic. The distribution is different. The rate structure is different. And to include it with other traffic in a comparable distribution of all freight would really make a distorted picture.

By Chairman Aitchison:

Q. You might as well take iron ore in too, don't you think?

A. I am sorry, I didn't hear that.

Mr. McCollester: Will you read that, please, Miss [fol. 3577] Reporter.

(Question read.)

The Witness: I think, Mr. Commissioner,—I started to put iron ore in there. I think you might as well take it, but iron ore is only produced, really, in two sections of the country. The Lake Superior section produces 83 per cent of the iron ore of the United States. The Alabama section produces about 7,000,000 tons but only about two and a half million tons of that moves by rail.

Q. Well, all of it, virtually, that is produced in the Lake Superior region is used in Official Classification Territory, isn't it?

A. Yes. But there is not the same distribution of iron ore. There is not the diffusion of it that there is of coal and it doesn't affect the distribution of traffic and revenues as does coal. That is one reason I left iron ore in and segregated coal.

Chairman Aitchison: Is this a convenient place to take a recess?

Mr. McCollester: All right, take a recess, Mr. Bell.

(Recess taken.)

Chairman Aitchison: Come to order, please. Off the record.

(Discussion outside the record.)

[fol. 3578] Chairman Aitchison: Proceed.

By Mr. McCollester:

Q. All right, Mr. Bell. Go ahead, please.

A. I was discussing the matter of considering coal independently of other traffic. If you include it with other traffic in a comparative distribution of all freight, it would make a distorted picture. At the same time, coal is traffic of great importance for many railroads, and constitutes a backlog of operation. For several of the railroads in the Central Eastern and Great Lakes regions, it constitutes substantially all of their tonnage. I do not think it can be ignored in comparisons of tonnage and revenues because it plays too important a part. At the same time, the production of anthracite is entirely in eastern Pennsylvania and moves only over a few roads. There is no production of coal in New England. The tonnage shown as originating in New England is water borne coal to the New England ports. Now, computations made from statement Q-550 show that the tremendous tonnage of coal originated in the five states of Pennsylvania, West Virginia, Ohio, Illinois and Indiana was 74.56 per cent of the total tons originated in the United States. The tonnage originated in Kentucky and Virginia, Tennessee and Alabama, constituted 19.83 per cent of the United States total.

Mr. Norman: Just a minute, please, Mr. Bell.

[fol. 3579] The Witness: Yes.

Mr. Norman: Where is that? Is that on the exhibit?

The Witness: No. I have computed those figures.

Mr. Norman: Go ahead.

The Witness: Of the loadings in these nine states, 80 per cent was in the northern states and 20 per cent in the southern states. The preponderance of the Pocahontas region railroads constitutes bituminous coal, and of the total traffic originated by these three railroads, bituminous coal was 88 per cent of their originated tonnage.

By Chairman Aitchison:

Q. Mr. Bell, you were with the Railroad Administration, were you not, at the time the Pocahontas region was created?

A. Yes, sir,—no. That was in 1920, that you created that. I left the service of the Railroad Administration

in June of 1920, and I think you created the Pocahontas region as the result of Ex Parte 74, did you not? That was August, 1920.

Q. It was created during federal control. Federal control ended February 28, 1920.

A. I was with the Railroad Administration during federal control, yes.

Q. Do you remember why the Pocahontas region was set up?

A. Because of the more prosperous condition of the Pocahontas region lines, as I recall it, and you were trying to work out some——

[fol. 3580] Q. Do not say "you" because the Director General did it.

A. I do not say he did it, but it was probably done for that reason. I will comment a little bit later on, on the fact that Dr. Edwards has included the Pocahontas rate territory, when there is no such animal. As I understand it, the Pocahontas region was created for recapture purposes.

Chairman Aitchison: Oh, no. It was created long before recapture was dreamed of.

The Witness: Well, that was my recollection, sir, which has been 20 years, and perhaps it is not so very good in some respects.

Chairman Aitchison: All right. It was created during federal control, and recapture did not come until the Transportation Act of 1920.

The Witness: It was my recollection, Mr. Chairman,—I, of course, am probably wrong—that it was created at the time of Ex Parte 74, which was August, 1920. However, I am probably wrong on my recollection.

Chairman Aitchison: Proce-d.

The Witness: I will omit the tonnage of the coal originating on all Class 1 railroads in the different regions. That is shown in the exhibit. However, I would like to point out that the northern coal fields are located in central and eastern Pennsylvania, in practically the whole of West Virginia, in southern Ohio, in Illinois, and in Indiana; [fol. 3581] that there are also coal fields in southwest Virginia, east Tennessee, west Tennessee, in western Kentucky and eastern Kentucky, the preponderance being originated in eastern Kentucky; and that there are coal fields in Alabama.

Now, except, as I show, for 5 per cent of the tons produced or originated in the country, it is all east of the Mississippi River. There is a greater tonnage originated in the different eastern states, including C. F. A. states than in the South. In 1939 the railroads in the Central Eastern and Great Lakes regions and the Pocahontas region originated 74.86 per cent of all the bituminous coal originated by the Class 1 railroads in the United States. They handled 76 per cent of all bituminous coal tonnage handled and their revenues were 76 per cent of the total revenues received. In 1939 there were four railroads in the Southern Railway, the Louisville & Nashville Railroad, the Clinchfield, and the Illinois Central that originated 16 per cent of the total bituminous coal originated in the United States. They handled approximately 13 per cent of all bituminous coal handled and received approximately 13 per cent of all the bituminous coal revenue. The coal originated by the Illinois Central which has been separated by Dr. Edwards in his cost studies between north and south of the river, and by the Southern Railway in Indiana which he included in the Southern region figures, was [fol. 3582] marketed in Official Territory.

I would like to call attention to page 3 of exhibit which shows that these four southern railroads originated almost 100 per cent of the bituminous coal originated in the Southern region; that they originated and terminated 94 per cent; that they handled 88 per cent of the coal in the Southern region; and that their revenues were 90 per cent of the revenues on bituminous coal in the Southern region.

Now, this brings me, Mr. McCollester, to the next part of the exhibit, Part 2, consisting of 10 sheets, beginning on page 5. The title to that part I think needs no further explanation than that shown thereon. Page 6 needs no comment. It is included for information. Page 7 is a statement dealing with products of agriculture under the Commission's general commodity groups. It shows that of the total of all tonnage originated in the respective regions, by far the greatest proportion is in the Southwestern, Central Western and Northwestern region; that the Southern region is next in rank; and that with the exception of the Pocahontas region, the percentage of products of agriculture originated is the smallest in the Central Eastern and Great Lakes region. The statement also shows the percentage of tonnage handled of agri-

cultural products to all tonnage handled, and likewise that the freight revenues were greater in the three Western regions with the exception of the tonnage handled in the [fol. 3583] New England region, the volume of which was not very great.

I would like to draw attention to the fact that much of the tonnage shown in the freight commodity statistics from which this part of the exhibit was computed, shown as originating in the Central Eastern and Great Lakes regions, actually had its origin at points west of the Mississippi River. A great deal of the grain and grain products tonnage, as we all know, is transitted, or has transit or reshipping arrangements at Chicago and Mississippi River crossings, and the freight commodity statistics credit the reshipped tonnage as being originated at the points where the reshipments were made. So that accounts to a great extent for the large tonnage originated shown for the Central Eastern and Great Lakes regions, in this exhibit, as taken from the freight commodity statistics.

Page 8 covers the group of animals and products. The percentage of tonnage originated to all tonnage originating was greater in the three Western regions than in the other regions.

By Mr. McCollester:

Q. That is page 8 you are referring to now, Mr. Bell?

A. Page 8. Page 9 shows products of mines. This discloses that with the exception of New England, whose tonnage originated was very small, the percentage of ton-[fol. 3584] nage of mines originated to total tons originated was smaller in the Central Eastern and Great Lakes regions than in all of the other regions, although the volume of the tonnage in the Central Eastern and Great Lakes regions was much greater. At the same time, the percentage of revenues received to total revenues received was greater in the Central Eastern and Great Lakes regions than in any other region except the Northwestern region, and the Northwestern region tonnage and revenues were accounted for by the heavy movement of iron ore from the Lake Superior district.

Page 10 shows the products of forest group, and that the volume of tonnage originated in the Southern region

and the percentage of that tonnage to total tonnage originated, was greater than in any other region, followed in volume and percentage of tonnage originated by the Southwestern region. I direct attention to the comparisons afforded on the volume of tonnage originated in the Southern region with that in the Central Eastern and Great Lakes regions and also the comparisons of the revenues received. The exhibit shows that the Southwestern, Central Western and Northwestern regions handled a very respectable volume of products of forests.

Page 11 shows the group of manufactures and miscellaneous. I should like to call particular attention to this group of commodities, because stress has been laid by [fol. 3585] various witnesses from other territories on the volume of this class of traffic produced in Official Territory, and their assertions that the Official rate level has prevented other territories from shipping their products into Official Territory; or to put it differently, their level as compared with the Official level. Now, seemingly these witnesses conjure up in their minds a great assortment of more or less high-grade commodities. I expect later to show that it is not economically possible for the South and West to produce some of the high-grade products manufactured in Official Territory. Likewise, that it cannot economically produce some of the products of lower grades, all of which go to make up heavy volume of production in Official Territory. Here I want to deal with a mistaken idea that the manufactures and miscellaneous group is made up of high-grade manufactures, the volume of which would be magically augmented, you might say, within the Southern and Western Territories and from those territories to Official Territory by the wand of a common parity of freight rates.

I am not going to enumerate any of the figures, but I would call attention to some of the low-grade commodities in the manufactures and miscellaneous group. These will be found in Part 3 of the exhibit, pages 26 to 34, inclusive, wherein the tonnage originated of the respective commodities in the respective regions are shown. I call [fol. 3586] attention to pig iron on page 26, to scrap iron and steel, also iron and steel, rated sixth class in Official Territory, on page 27. This latter list includes the lowest manufactured grades, that is blooms, billets, and so forth;

fertilizers, on page 31; ice and cement on page 32; common brick, brick not otherwise specified and building title; also lime, plaster, sewer pipe and drain tile on page 33; furnace slag on page 34. These twelve low-grade commodities alone comprise 17 per cent of the total originated tonnage of all of the Central Eastern and Great Lakes region, 62.6173 per cent for manufactures and miscellaneous shown in Column 2 on page 11 of the exhibit.

Furthermore, as page 34 of the exhibit discloses, 14.3 per cent of the originated tonnage in the manufactures and miscellaneous group in the Central Eastern and Great Lakes region is included in the blanket term "manufactures and miscellaneous N. O. S." Under the Commission's classification on which the freight commodity statistics are based, 1,270 items are included in this list, including commodities such as animal dip, ashes, scrap bagging, wooden blocking, brick bats, brick dust, broken pottery, cement clinkers, chemical lime, cinders, N. O. S., coaltar, coaltar pitch, wooden conduits, core compound, wooden crates, cross-arms, cullet, excelsior, flower pots, flower dust, foundry facings, foundry refuse or sweepings, [fol.3587] glue scrap, junk, and so forth, through the alphabet.

By Mr. McCollester:

Q. Is that all you have on Part 2 of the exhibit, Mr. Bell?

A. I think so. Pages 12, 13 and 14 are self-explanatory and need no comment.

Q. As I understand it, Mr. Bell, Part 2 of the exhibit is designed to show the differences between the several regions in the nature of the tonnage originated and handled on the basis of the general commodity groups, is that right?

A. Part 2, yes.

Q. Now, you have broken that down further, have you not, in Part 3, to show even greater variations when you consider the specific items in the general commodity groups?

A. Yes.

Q. Is that right?

A. Yes, and the items according to their generic character also, as far as practicable to do it. I have grouped them in that way.

Q. Go on, please, with Part 3.

A. I might say also that Part 4 of the exhibit beginning on page 36 shows the tonnage originated and terminated by geographic areas for the year 1940 as shown in the Commission's Statement Q-550. The commodities are arranged in Part 4 in the same order and groups as in Part 3, and I think that Part 4 should be studied in connection with [fol. 3588] Part 3.

I want to explain that the freight commodity statistics are not adapted to the ascertainment of tonnage and revenue figures by all the respective rate territories because one or two or more railroads may traverse two or more regions, and the statistics will show that they are included in one region. On the other hand, it is possible from Statement Q-550 to assemble the originated and terminated tonnage substantially by rate territories, but it is not possible to ascertain the revenues, or by what railroads in the respective territories the tonnage is originated and handled. Q-550 also has the infirmity of showing tonnage which may be originated at some border point in a state or terminated at a border point when, as a matter of fact, it may move through other rate territories and the state in which it is shown as having originated or terminated really does not fit the picture, in so far as the transportation movement is concerned. That accounts, I think for many disparities in the tonnage figures as between Parts 3 and 4 of my exhibit, even in those instances where the grouping of the states, according to rate territories is substantially the same as the regions shown in Part 3.

Now, Parts 3 and 4 of the exhibit show that the traffic originated by the carriers in the different sections of the country differs not only as shown by the general commodity [fol. 3589] groups in Part 2 of the exhibit, but that when these general groups are broken down, there are even wider variations with respect to the specific commodities in commodity groups. I will mention just a few striking examples. The greatest tonnage of cereals originated is in Western Trunk Line and Mountain Pacific states. The greatest originated tonnage of cereal products is in Western Trunk Line states. The heaviest movement of citrus fruits originated in California, with Florida second in rank. The major portion of the domestic fruits originates in the Mountain Pacific states, including the heavy movement of deciduous fruits from California and the great movement of apples from Washington and Oregon. Domestic vege-

tables originate predominantly in the Mountain Pacific states, chiefly California, with the Southern states next in rank. Tropical fruits consisting almost wholly of bananas, are imported, and these importations are through the gulf ports and North Atlantic ports with some little importation through the Pacific ports. The greatest production of leaf tobacco is in the Southeastern states, cotton, cottonseed and peanuts in the Southeastern and Southwestern states. The great production of sugar beets is in the Mountain Pacific states and in the Kansas-Nebraska group. I think I have mentioned that the greatest production of iron ore is in the Lake Superior region which produces 83 per cent of the country's supply.

[fol. 3590] This ore originates chiefly in Minnesota and practically all the tonnage handled by the railroads moves to the lake ports for transshipment by vessel. The greatest tonnage of salt is originated in the three states of New York, Michigan and Ohio. Considerable quantities originate in Kansas and Louisiana, and a comparatively small tonnage in California. There is either no production in the other states, or it is negligible. Phosphate rock originates in the State of Florida and the State of Tennessee. Now, just one other example, but one of the most important, is forest products. Page 41 of the exhibit shows that out of a total of 58,000,000 tons originated in 1940, 35 per cent originated in the Mountain Pacific states, 33 per cent in the Southeastern states, 14 per cent in the Southwestern states, 9 per cent in the Trunk Line-C. F. A. state, slightly more than 8 per cent in the Western Trunk Line states and approximately 2.5 per cent in the New England states. The breakdown of this tonnage group by commodities for 1940 will be found on pages 40 and 41, and I think it would be of interest to review that movement by regions in 1939, shown on pages 24 and 25.

The tonnage and revenue figures by regions for 1939 for the commodities I have mentioned, as well as all other commodities, will be found in Part 3 of the exhibit and tons originated and terminated in 1940 in Part 4 of the [fol. 3591] exhibit. However, for the purpose of my later testimony, I would like to tax the patience of the Commission by a little discussion of three or four commodities in the manufactures and miscellaneous group. The commodities embraced in iron and steel will be found in sub groups F to O, inclusive, pages 26 to 28 of Part 3 and pages

41 and 42 of Part 4. The Central Eastern and Great Lakes region tonnage constituted 68.64 per cent of that for all regions, but constituted 20.9 per cent of the total tonnage originated in the Central Eastern and Great Lakes region exclusive of coal and coke. With the addition of the Pocahontas region, the tonnage originated, the combined total for the Central Eastern and Great Lakes and Pocahontas regions was 81 per cent of the total tonnage of iron and steel articles originated in all regions. Now, excluding pig iron, scrap iron and steel comprised in groups F and G of the exhibit, the total tonnage of iron and steel originated in the Central Eastern and Great Lakes region constituted 16 per cent of the total tonnage originated in those regions, excluding coal and coke.

On page 42 of Part 4, it shows that the tonnage of the entire iron and steel group originated in 1940 in the Trunk Line-C. F. A. states was 83.8 per cent of the United States total tons originated. With the elimination of pig iron, scrap iron and steel, the percentage was 90.5 per cent. Iron and steel constituted the greatest volume of any [fol. 3592] single commodity or commodity group handled by the railroads in the Central Eastern and Great Lakes region with the exception of coal and coke. Without exception iron and steel is the greatest revenue producing group of commodities in those three states except coal and coke.

Now, the explanation of the tremendous difference in the tonnage and revenues of iron and steel in those regions as compared with other regions is not hard to find. In those regions the furnaces or mills are in close proximity to the raw materials used in production. They are in close proximity to the great consuming markets and ports of exportation. There is the availability of water transportation, the Ohio River, the Great Lakes and the Atlantic Ocean.

Mr. Norman: Mr. Bell, will you state again what region that pertains to? I did not catch that.

The Witness: Central Eastern and Great Lakes.

Mr. Norman: Does that include New England?

The Witness: No, sir. I may mention here now, Mr. Norman, and Mr. Chairman, that I am not dealing here with any New England revenues or tonnage.

Chairman Aitchison: I did not hear you, Mr. Bell.

The Witness: I say, I am not dealing here with any New England revenues or tonnage, only the Central Eastern

and Great Lakes region. Alabama is the only state in the South solely, by reason of its close proximity to raw mate- [fol. 3593] rials, can cheaply produce iron and steel. Alabama does not have the advantage of being in anything like the close proximity to the great consuming markets as the Central Eastern and Great Lakes region, and its ability to reach these markets by water is limited. I may mention parenthetically that according to the Minerals Year Book, the production of iron ore in other Southern states is negligible, the deposits not being sufficient to develop on a commercial scale. No iron or deposits worthy of mention are found in the Southwest or in the Western Trunk Line Territory except the Lake Superior region.

By Mr. McCollester:

Q. Right there, Mr. Bell, Mr. Spottswood in the course of his economic survey made the statement that 95 per cent of the available iron ore of the country was in the South and West. Do you think that is a fair statement in considering the traffic moving in Official Territory as compared with the South?

A. I think Dr. Spottswood, as I recall it, said that was in the reserves, did he not? He did not specify where it was. I am not sure about that. Anyway, the statement is utterly unfair for the purposes of this proceeding.

Q. This large volume of Lake Superior iron ore becomes traffic, to a very large extent, for the railroads in Official Territory, does it not?

A. Yes. Practically all of it is transshipped by vessel [fol. 3594] to the lower lake ports, lower Michigan and Lake Erie ports, and is either consumed at points like Gary, Indiana Harbor, South Chicago, Cleveland, Toledo and the Lake Erie ports, or it forms the supply for the western Pennsylvania and northern West Virginia and Ohio, interior Ohio furnaces. I have just gone through this question a few months ago with the Office of Defense Transportation, restricting the movement of lake coal, in order that they might have the vessels to bring the ore from the Lake Superior ports, and it was estimated that vessels for 90,000,000 tons would be needed for this season.

Q. That is, for the production of iron and steel in Official Territory?

A. Yes, in the Central Eastern and Great Lakes region.

Q. That is right.

A. Yes. The greatest production in that territory was western Pennsylvania, eastern Ohio, eastern Pennsylvania, Indiana and Illinois, in the order named. There is a lesser production in the Buffalo district, western Ohio, West Virginia, Maryland and Delaware. Many of the larger steel mills in the territory are located on the Great Lakes and navigable rivers. All of these sections are in close proximity to the greatest reservoir of coal in the United States and in which limestone and dolemite are found in abundance. These latter minerals are, of course, needed in con- [fol. 3595] nection with coke and iron ore for the production of pig iron.

The mills in the Middle District, namely, western Pennsylvania, West Virginia, eastern Ohio and the Buffalo district, can obtain iron ore by water movement on the Great Lakes or by a comparatively short rail haul; likewise Indiana and Illinois. This iron ore also affords a return loading for cars in which tremendous quantities of coal are transported to the Great Lakes for transshipment. Considerable quantities of the iron ore used by the mills in the eastern section are imported, transported by water to the North Atlantic ports, particularly from Chile. That is, of course, under normal conditions, New York, Pennsylvania and New Jersey produce considerable quantities of iron ore which totaled more than 3,000,000 tons in 1939 and more than three and a half million tons in 1940.

Now, the greatest consuming markets and areas for the manufactured iron and steel are comparatively short distances from the mills. As is the case with Chicago, it is within a stone's throw of the great steel mills in Gary and Indiana Harbor. The Great Lakes, the New York Barge Canal, the Monongahela and Ohio Rivers and the Chicago Canal in connection with the inland waterways system of the Mississippi River are available for the transportation of raw materials and manufactured products to and from [fol. 3596] the mills in these respective producing districts. On page 523 of the Commission's report in the Iron and Steel Articles case, 156 I. C. C. 517, it was stated that the markets for these steel articles are widely distributed and that the greatest volume consisting of bands, bars, plates, sheets, and so forth, is destined to be further manufactured before reaching the ultimate consumer. It follows that the most important markets are in the states where there is the heaviest use of these articles in manufacture. The report

then goes on to say that 75.6 per cent of the total domestic consumption of rolled steel in the United States was consumed by the several states in Official Territory. With the exception of Michigan, the five states which are first in point of consumption, are also the heaviest producers. Michigan produces little steel itself, the consumption being due to its extensive manufacture of automobiles and parts.

Next to the Great Lakes and Central Eastern region, Alabama is the largest iron and steel producing area in the United States. I have compared figures for the Central Eastern and Great Lakes region with Alabama in Section B, Part 5, pages 47 to 50 of the exhibit, to which I shall presently refer. In Alabama, in 1939, there was produced 5,967,000 gross tons of iron ore. In 1940 Alabama produced 7,316,000 gross tons. Jefferson County, in which Birmingham is situated, produced the greatest volume of that iron [fol. 3597] ore production, in fact about 85 to 90 per cent.

Now, page 28, part 3 of the exhibit, shows that in 1939 the Southern region railroads originated only 2,074,000 tons of iron ore as compared with the production I have mentioned. The disparity between the production and the rail movement is accounted for by the fact that the greatest production of iron ore produced in Alabama, does not move by common carrier railroads. The principal furnaces are situated in the middle of the ore deposits, and utilize their own facilities in moving the ore to their furnaces. I shall not attempt to repeat in the record the figures shown on pages 27 to 50 of the exhibit, but the great disparity in the Southern tonnage and revenues with those in the Central Eastern and Great Lakes region is accounted for by the causes I have mentioned.

Now, one other thing in connection with the comparisons of iron and steel tonnage and revenues on pages 47 to 50 of the exhibit is the fact that the rate structures in the South and in Official Territory have differed substantially in that heavy loading commodities moving in volume, largely move on class rates in Official Territory, whereas, in the South they are accorded commodity rates. The present rates on manufactured iron and steel in Official Territory are based on the scale prescribed by the Commission in the Iron and Steel Articles Case, and on the whole are somewhat lower than the present fifth class rates. But my point is that for a long period of years

[fol. 3598] iron and steel in Official Territory was regarded as fifth class traffic. On page 526 of the report in the Iron and Steel Articles Case, reference is made to the fact that manufactured iron and steel in carloads rated fifth class in Official Territory—that a very large volume of the movement was at fifth class rates. This was especially true of the great Middle District, Buffalo, western Pennsylvania, West Virginia and Ohio, which furnished 60 per cent of the entire production of the entire territory. Approximately half of the carload shipments of steel originated in the Middle District destined to points in Official Territory moved at fifth class rates. That rates from the Pittsburgh district to the Atlantic Seaboard territory were on a fifth class basis. At page 537 of the report it is stated that fifth class rates applied from Illinois and Indiana points to destinations east of the Indiana-Ohio state line, and with few exceptions, between Michigan and the remainder of Central Territory. Also that iron and steel between Trunk Line and Central Territory generally move at fifth class rates. However, I may say that in the Eastern Class Rate Case the Official carriers pegged their whole class rate adjustment on the prevailing fifth class rates from Pittsburgh to New York, Pittsburgh to Chicago, and Chicago to New York admittedly because iron and steel articles moved so generally on fifth class rates in such [fol. 3599] tremendous volume.

Mr. McCollester: Let me ask you this question, Mr. Bell:

By Mr. McCollester:

Q. In your opinion, does this very great difference that you have pointed out in the volume of iron and steel movement in Official Territory and in the South and in the possibility of such movement because of the presence of the raw materials in Official Territory, constitute an important distinguishing factor affecting both the pattern of the rate structure in Official Territory as distinguished from that in the South and the tonnage available to the Official carriers to defray the transportation burden in Official Territory?

A. Decidedly so.

Q. Go on, please.

A. There are just two or three other commodities in the group which I want to call attention to. One of them is

petroleum products, which will be found on page 26, sub group A of Group V. The Minerals Year Book of 1940, Department of the Interior, shows that no petroleum is produced in the South except for a very limited production in Kentucky and Mississippi. However, the South is fringed with points from which petroleum products are shipped. Refineries are located at the gulfports, the South Atlantic ports, Norfolk, Louisville and other river ports. [fol. 3600] There are bulk distributing stations at practically all South Atlantic and gulf ports and at Memphis, Tennessee. The crude oil is brought by vessel to the points at which refineries are located and in some cases by pipe lines, and the pipe lines are being extended. Gasoline and other products are likewise so moved and stored pending reshipment. Petroleum products form an important part of the tonnage and revenues of the Southern region railroads, but the exhibit shows they are small in comparison with those in the Eastern district in which petroleum and gasoline are produced, as well as being brought into that territory by pipeline and tank cars. Now, let us look at the automobile group which is on page 29, Part 5 of the exhibit.

Q. You mean Part 3?

A. Part 3. Pardon me.

Q. Go ahead.

A. Items 590, 591, 592 and 593 on page 29 are comprised of passenger automobiles, autotrucks, automobiles and autotrucks, knocked down, and parts, n.o.s., and automobile and autotruck tires. Now, there are automobile assembling plants in the South, for example, at Memphis, Tennessee, Atlanta, Georgia, Charlotte, North Carolina, and Jacksonville, Florida, and also at the gateways of Evansville, Cincinnati, Louisville and Norfolk; but there has never been an automobile manufacturing plant in the [fol. 3601] South. The same may be said of other regions outside of Official Territory. Here again the Official Territory manufacturer's natural advantages of location, proximity to raw materials and semi-processed materials, water transportation from their sources of supply and also water transportation and proximity to the great consuming territory, plainly accounts for the establishment of these plants in Official Territory and the absence of these materials

accounts for the lack of such plants in the South and other territories.

Chairman Aitchison: You do not attach any importance, then, to the sentimental affection Mr. Ford may have had at Dearborn when he started out manufacturing automobiles in a small way there?

The Witness: I do not recall that, Mr. Chairman.

Chairman Aitchison: I beg your pardon?.

The Witness: I do not recall it. I will be frank with you. I do not recall it.

Chairman Aitchison: He started his machine shop in Dearborn. Suppose he had been somewhere else. Suppose he had been in Milwaukee.

The Witness: Well, he started, Mr. Chairman, if you will permit me to say it, in a territory which was rich in the raw materials and other materials essential for the manufacture of automobiles, that I testified to, which you do not find in the South.

[fol. 3602] By Chairman Aitchison:

Q. Well, at the time he began manufacturing, the cost of the automobile, the finished product, was largely a labor item, was it not?

A. It was the labor item. That was probably the largest cost.

Q. The automobile industry was pretty well established in and around that section you have mentioned, particularly Detroit, before mass production came in and the labor item began to diminish in importance?

A. And they are still established there except for the assembly plants which have been established in other territories where they ship the parts of the automobiles which are manufactured at Detroit and other points into the assembly point and there assemble at the assembly point.

Q. You would leave us with the impression, as I gather your statement, that these plants were deliberately located where they were because of the proximity of these raw materials?

A. That is my judgment, sir.

Q. I am asking whether it is not a fact that the automobile industry started in an extremely humble way in the workshop of some rather poor people who happened to be working where they were, and the most important

thing was the labor and not the materials; and it was not until the automobile industry was well established that the importance of materials, and particularly freight rates [fol. 3603] on materials became important, or became so marked?

A. There is one thing you have to look at, and that is the difference between that first model that Henry Ford made and the automobile, the character of the automobile, since that time. Certainly, with the modernization, you might say, of the automobile, access to the raw materials has a very important bearing upon it as well as labor. The labor situation, of course, has grown more acute in recent years than it was in the first part of the century when they first commenced manufacturing automobiles.

Mr. McCollester: You will realize, of course, Mr. Chairman, that a very large part of the Ford automobiles are now made in their finished state far from Detroit. Henry Ford has scattered assembly plants all over the map of the United States. Presumably, he is an astute enough business man so that if it would have been more economical for him to carry on his complete production from raw materials to finished automobiles, that is where he would have done it, instead of simply putting assembly plants there.

By Mr. McCollester:

Q. Go on, Mr. Bell, please.

A. The Michigan, Indiana, Wisconsin and Ohio factories are in close proximity to their supplies of steel and glass. The producers of those articles are in turn in close proximity to their raw materials. While considerable tonnage in the auto group originated in the Southern region in 1939, [fol. 3604] the greatest proportion of tonnage handled was delivered to them by their connections. Although their freight revenues were small in comparison with those of the railroads in the Central Eastern and Great Lakes region, it was a substantial part of the revenues of the Southern region railroads. The Central Eastern and Great Lakes region carriers' originated of automobiles in 1939 was 2,200 per cent of the tonnage originating in the Southern region. I might add to what I said a while ago about the question of the location of the plants, that unquestionably the matter of the distribution had a lot to do with it because there was the greatest density of population in the United States east of

the Mississippi River and north of the Ohio, and with the combination of the accessibility of raw materials and the distribution within comparatively short range from these factories, I think that that rather had something to do with the location of the plants.

Chairman Aitchison: Is this a convenient point to adjourn for lunch?

Mr. McCollester: Yes.

The Witness: Yes.

Mr. Norman: Mr. Chairman, may I say something with respect to the matter we discussed this morning?

Chairman Aitchison: Off the record.

(Discussion outside the record.)

[fol. 3605] Chairman Aitchison: We will suspend until 2 o'clock.

(At 12:30 o'clock p. m., adjournment taken until 2 o'clock p. m.)

[fol. 3606] Afternoon Session

The hearing was resumed pursuant to recess.

2 o'clock P. M.

Chairman Aitchison: Shall we proceed.

Mr. McCollester: Mr. Bell.

CHARLES E. BELL resumed:

Direct examination (Cont'd).

By Mr. McCollester:

Q. Mr. Bell, will you resume where you left off, please, in your discussion of your Exhibit No. 165 for identification.

A. Until a very recent date, the South has never produced commercially a ton of newsprint paper because the woods indigenous to the South have never been adapted to the process of manufacture. In the last year or two, however, it has been widely advertised that a process has been evolved for the utilization of the pine woods of the South, and, I have heard, cotton stalks also. Certain it is, however, that up to this date production has not assumed any considerable volume.

Now, treating of one more item: Items 699 and 700, page 31, Exhibit 165 for identification, cover flat glass, other than plate, and glass bottles, jars and jelly glasses. Largely for the same reasons mentioned in connection with iron and steel production, 90 per cent of the glass and glass con-
[fol. 3607] tainers are manufactured in Western Pennsylvania, Northern West Virginia, Eastern and Middle Ohio, Illinois, and Indiana, where an abundance of coal, glass sand and limestone, the chief raw materials, are found in juxtaposition within or adjacent to the producing areas, and also the sodas that are used in glass manufacture. On the other hand, the great production of the heavy commercial chemicals used in almost every line of manufacture, including glass, namely the commercial sodas, has been in Official Territory, not only because it is the greatest consuming territory, but by reason of the fact that coal and salt are found in juxtaposition, or cheap hydroelectric power and gas, as substitutes for coal.

Salt is not produced in the Southern Region, but is found in large quantities in Western Louisiana. In recent years plants have been established in Western Louisiana for the manufacture of these commercial chemicals, and I believe also in Texas. There is no production of salt in the Southern Region, and while a small quantity of caustic soda is produced in the South, it is a by-product of paper manufacture in which chlorine is used.

Now, turning to page 46 of the exhibit: This page is designed to carry further the differences between the North and the South in the character of their respective freight movements of the commodities in the Manufacturers & Mis-
[fol. 3608] cellaneous group. There are 12 commodities shown in section 1 on this page which are in the nature of low-grade heavy-loading commodities. On these the carriers in the Southern Region have seen fit to maintain rates on a level generally the same as or lower than the level of rates in Official Territory.

Section 2 of page 46 shows the four commodities which I have previously discussed, which constitute an important portion of the traffic in the Central Eastern and Great Lakes Regions, and which, in the nature of things, cannot be originated in similar volume in the South. If we eliminate from the total Manufactures & Miscellaneous the tonnage of the 12 low-grade commodities and of the four commodities last referred to, there remain in the South only commodities in

the Manufacturers & Miscellaneous group which are comprised of the more highly-graded commodities, and these constitute only 17.83 per cent of the total tonnage originated by the carriers in the Southern Region, excluding coal and coke.

Now, when we make the same elimination in the Central Eastern and Great Lakes Regions, there remain articles in the Manufactures & Miscellaneous group which constitute 28.52 per cent of the total tonnage originated by those carriers. In other words, the Southern railroads necessarily handle only a small volume of commodities in the four groups listed in section 2, on page 46, and having elected to maintain rates no higher, and generally lower, on the low-[fol. 3609] grade manufactured commodities shown in Section 1 of the statement, and further, having left Manufactures & Miscellaneous commodities representing only 17.83 per cent of their total tonnage, they must necessarily charge relatively higher rates on the latter than are charged by the carriers in the Central Eastern and Great Lakes Regions, which, for a balance of 28.52 per cent of their total originated traffic, represented by these remaining Manufactures & Miscellaneous commodities, have a large volume of the commodities shown in section 2, with generally higher rates on the low-grade commodities in section 1.

Now referring to part 5 of Exhibit No. 165, beginning at page 51. This statement is designed to show that proportions of the low-grade heavy-loading freight are very different in the two territories. This is important because with the low-grade heavy-loading commodities constituting a greater proportion of the total traffic in the South, on which the railroads in the South have elected to accord relatively lower rates, these railroads must, of course, maintain a higher level of rates on their much smaller proportion of the higher-grade manufactured commodities.

The first group of commodities on page 52 is comprised of ten of the lowest-grade commodities handled in transportation. The second group is of somewhat higher-grade but in the category of low-grade tonnage. Some of the high-[fol. 3610] lights afforded by the comparisons contained in this statement are, first, that the actual tonnage originated of the first group of commodities was greatly in excess of the corresponding tonnage originated in the Central Eastern and Trunk Line Regions. That is, they constituted 34 per cent of all tonnage originated in the Southern Region,

and only 9 per cent of all tonnage originated in the Central Eastern and Great Lakes Regions, notwithstanding the fact that, as is shown on page 5 of Exhibit 165, the mileage in the Southern Region was only 38,195 miles as compared with 49,677 miles in the Great Lakes and Central Eastern Regions. Also the fact that, excluding iron ore from the tonnage handled in the respective regions—see subsection D, page 54—the remaining nine commodities constituted 22.95 per cent of the tonnage handled by the Southern Region compared with but slightly little more that 5 per cent in the Central Eastern and Great Lakes Regions. It also shows that freight revenues on the remaining nine commodities constituted only 6.64 per cent of total revenues of Southern Region.

Now I think that I have already stated that the great bulk of the iron ore tonnage in the Central Eastern and Great Lakes Regions which, by the way, was more than 28,000,000 tons originated, did not actually originate in the Central Eastern and Great Lakes Regions, but consisted of ex-lake ore from the Lake Superior District.

[fol. 3611] By Chairman Aitchison:

Q. Did you say, 28,000,000 tons of iron ore?

A. I said, Mr. Chairman, the great bulk of the iron ore tonnage in Central Eastern and Great Lakes Regions, which it is shown was over 28,000,000 tons——

Q. In column 1-b, you show 2,800,000 tons.

A. —did not actually originate in Central Eastern and Great Lakes Regions but consisted of ex-lake ore from the Lake Superior District.. According to subsection C, column 1-b, page 54, it was included in the tonnage originated and terminated, and tonnage received and terminated from connecting lines; but, Mr. Commissioner, if you will look at page 52, you will find that only 2,828,000 tons are shown as actually originating in the Central Eastern and Great Lakes Regions. Now if will look over on page 53, Mr. Chairman, under the heading of tonnage received from connecting lines, you will find that there were 35,108,229 tons; and in the next column, 2-b, or under the next heading, you will find that 28,434,914 tons of that were terminated by the receiving line. Now I do not know whether I have made it exactly plain or not, but that tonnage of 28,000,000 plus tons is not shown on page 52 as originated tonnage. It

was actually handled from the Great Lakes ports—at least the great bulk of it was—and is therefore shown as tonnage received from connecting lines.

[fol. 3612] By Mr. McCollester:

Q. Well, the point is this, is it not, Mr. Bell, that the figure of 28,819,000 tons to which you have referred in your earlier testimony, is tonnage originated and terminated, and tonnage received from connections.

A. Yes.

Q. Whereas the figure of 2,828,000 tons shown in column 1-b on page 52 of your Exhibit 165, to which the Chairman has referred, is limited to tonnage originated.

A. Yes, sir—on page 52, tonnage originated.

Q. Yes.

A. And that is only the tonnage which is shown in the Freight Commodity Statistics, and was originated by the Central Eastern and Great Lakes Regions lines; but it is shown, as I said, in column 1-b on page 53 of this exhibit, that they received something over 35,000,000 tons from connecting lines; and in column 2-B, on that same page, that they terminated 28,434,000 tons of it; and as I said, that consisted of ex-lake iron ore.

Mr. McCollester: I think that explains it.

The Witness: Now, the originated tonnage of all commodities in both groups of commodities shown in the statement constituted 57.65 per cent of the total tonnage originated in the Southern Region compared with 29.5 per cent in the Central Eastern and Great Lakes Regions; and 40.8 per cent of the total tonnage handled in the Southern Re-[fol. 3613] gion compared with 23.75 per cent in the Central Eastern and Great Lakes Regions, iron ore excluded. Now, the revenue on all commodities included in the statement was 21.65 per cent of the total revenues of the Southern Region compared with 13.4 per cent in the Central Eastern Region, iron ore excluded.

On page 55 of the exhibit the tonnage and revenue figures are shown for what are generally considered as the low-grade commodity groups, namely, Products of Agriculture, Products of Mines, and Products of Forests. To these groups are added the 12 low-grade commodities embraced in the Manufacturers & Miscellaneous group. The statement then shows the remaining tonnage and revenues in

the general Manufactures and Miscellaneous group to which are added the figures for the Animals & Products group.

The tonnage and revenues of less than carload traffic are shown at the next to the bottom line of the statement as information.

Now the purpose of this statement is to make a comparison of tonnage and revenues on what is generally considered to be low-grade freight, as distinguished from freight of the higher grades although the 12 items of low-grade manufactures by no means constitute all of the low-grade commodities in that group.

By Mr. McCollester:

Q. Does that conclude, now, Mr. Bell, your discussion of your Exhibit No. 165?

[fol. 3614] A. Yes, sir.

Q. In connection with this matter of the different distribution of the so-called traffic burden to different characters of traffic in the two territories: Do you have any comment to make with respect to Dr. Aitchison's Exhibit No. 14?

A. My only comment is with respect to the inclusion of commodities in what Dr. Aitchison has designated on page 4 of her exhibit, and in the table shown on page 5 thereof, as Class Rate Group and the commodities included in the designation Commodity Rate Group. At page 3 of Exhibit 14, or in connection with that page, Dr. Aitchison testified that the groups were made with reference to the list of commodities in Appendix 2 to the tentative order in Docket No. 28300 dated September 25th, 1940, in an effort to keep similar classes of traffic together, and at the same time to segregate those moving generally on commodity rates, as indicated in the list contained in that appendix; enumerating, however, some exceptions and the reasons therefor. The witness repeated her statement, in substance, in her cross examination, by Mr. Hughes, shown at pages 327-329 of the record. I understand from page 3 of Exhibit No. 14, and from Dr. Aitchison's answers to Mr. Hughes, that the Commodities enumerated in Appendix 2 to the proposed order of September 25th, 1940, were considered as commodity traffic, and that other traffic, with the exception of [fol. 3615] the specified items named on pages 3 and 4 of Exhibit 14, was considered as class rate traffic. I have ex-

amined the list of commodities in Appendix 2, and I have also examined the list of commodities not included in that Appendix which under Dr. Aitchison's compilations were considered as class rate traffic. From my own knowledge of the tariffs and of the commodities so included, I can state that the great volume of the movement is on commodity rates and not on class rates. For example, practically the entire movement of fresh fruits and vegetables, in the Products of Agriculture group, is on commodity rates. A substantial volume of the commodities under the Animals and Products list moves on commodity rates, on exceptions and column rates, including green hides, live poultry, and also much of dairy products, if I remember correctly. Now, in the Forest Products list, there is a great volume of the commodity of rosin, if not most of it, as I understand it, that moves on commodity rates. I recall, when I was in the railroad business, that all of it moved on commodity rates, and I believe that the same thing is true today. Now a large proportion of the commodities in the Manufactures & Miscellaneous group, move altogether on commodity rates, or column rates, including cottonseed oil, blackstrap molasses, pig iron, and iron and steel articles, rated 6th class; also iron and steel articles rated 5th class.

[fol. 3616] By Chairman Aitchison:

Q. Are they rated in the classification?

A. They are included in the classification, yes, Mr. Chairman, but they are either given column rates, or commodity rates by exceptions, or by special commodity tariff. For instance, iron and steel articles, rated 5th class, are usually published in a separate tariff. Rails and fastenings are accorded commodity rates, or column rates; also cast iron pipe, furniture, fertilizers, scrap iron and steel,—just to mention some of the commodities which I happen to be familiar with.

By Mr. McCollester:

Q. Now, Mr. Bell, will you please proceed to take up and explain your Exhibit No. 166.

A. On the title page of my Exhibit 166 there is indicated the general information that is included and contained in the exhibit. Following the title page, page 1 of part 1 indicates the territorial allocation of railroads in Witness

Edwards' Exhibits 3 and 10, as referred to in sections 1, 2 and 3, on the title page.

As appears on pages 9 and 14 of Dr. Edwards' Exhibit No. 2, his cost data includes within what he has designated as Pocahontas Territory, the total operations of the Chesapeake & Ohio, Norfolk & Western, and Virginian Railways, which are the greatest coal-orginating railroads in the United States. Now, as a matter of fact, there is no such [fol. 3617] thing as a Pocahontas Territory. Except for 238 miles of the Norfolk & Western system in Southern Territory, the entire mileage of the three railroads is in Official Territory, and the Commission found that it was in Official Territory in the Eastern Class Rate Investigation. Although 587.9 miles of the Chesapeake & Ohio is in Kentucky, that portion was included in official Territory in the Eastern Class Rate Investigation.

With the exception of the 238 miles of the Norfolk & Western traversing Southern Territory, operating costs on these railroads are the lowest in the country. The effect of excluding them from Eastern Territory overstates the costs shown in Dr. Edwards' exhibits for Eastern Territory. The total average freight mileage operated by these three railroads in 1939 was 5820 miles. The tonnage originated and handled by them, and their freight revenues, are shown in Subsection B, page 2, of my exhibit.

Even if we should carve out of Official Territory and Southern Territory, a Pocahontas rate territory, consisting of Virginia and West Virginia, as Dr. Edwards has done in his Exhibit 10, as Subsection A, page 2, of my Exhibit No. 166 shows, the Chesapeake & Ohio operates 734 miles in Central Freight Association Territory, 230.3 miles of which is the line from Portsmouth to Toledo, Ohio, and 285.2 miles, the line from Cincinnati to Chicago. [fol. 3618] It also shows that the Norfolk & Western operates 262 miles in Central Freight Association Territory, including 99 miles from Portsmouth to Columbus, Ohio, and 163 miles from North Kenova to Cincinnati.

Out of 41,000,000 tons of bituminous coal originated by the Chesapeake & Ohio in 1939, 27,318,000 tons of it moved to or through Central Freight Association Territory and was transported over the line of the Chesapeake & Ohio from Portsmouth to Toledo, or the line from Cincinnati to Chicago. The preponderance of the movement, as I

happen to know, was over the Portsmouth-Toledo line, including lake-billed coal and coal destined to Ohio and Michigan. Out of 36,647,000 tons originated on the Norfolk & Western, more than 24,000,000 tons moved over the line from Portsmouth to Columbus, or the line from North Kenova to Cincinnati. The great preponderance moved over the Portsmouth-Columbus line.

We see, therefore, that even if there should be a Pocahontas Rate Territory of the character that Dr. Edwards has indicated, the portions of the Chesapeake & Ohio and Norfolk & Western actually operated in Central Freight Association Territory would transport more than 51,000,000 tons of bituminous coal. But he has not given the Eastern Territory any credit for this tonnage handled at lower operating costs than for any of the railroads he has included in Eastern Territory. This does not take into account coal delivered to the Chesapeake & Ohio and [fol. 3619] Norfolk & Western by the Virginian Railway which is transported over the Central Freight Association portions of their lines; nor does it take into account any part of the general traffic other than coal handled over the Central Freight Association lines.

Now on page 3 of the exhibit, section 3, are shown the railroads and portions of railroads, other than the Chesapeake & Ohio, Norfolk & Western and Virginian, which I consider as having been improperly included in Southern Territory in Dr. Edwards' Exhibit No. 2.

By Chairman Aitchison:

Q. What page?

Mr. McCollester: 3.

A. On page 3, section 3. The first road shown is the Richmond, Fredericksburg & Potomac, which, while it is designated as being in the Pocahontas Region, is actually in Official Territory, and is a very important bridge line extending from south of Washington, D. C., to Richmond, Virginia. The next line to be shown is the Southern Railway, which Dr. Edwards has included in Southern Territory, but there are 429 miles which are operated in Virginia, which is in Official Territory. The line from New Albany to St. Louis, which is 410 miles in round figures, Dr. Edwards has included in Southern Territory, but he

has included the portion of the line of the Louisville & Nashville Railroad which is in Official Territory, as being in Eastern Territory. I call attention to note 3 in that connection, that Dr. Edwards' Exhibit No. 2 includes [fol. 3620] operations of the Louisville & Nashville Railroad "in the State of illinois extending roughly between East St. Louis and McKeansboro, Illinois." Doubtless he meant McLeansboro. At any rate, he has not included the line from McLeansboro to Evansville, and without the inclusion of that line, you could not possibly connect up that part of the Louisville & Nashville Railroad with its main line. Now, the Mobile & Ohio Railroad is included in Southern Territory, although 151 miles of that line are north of Cairo, Illinois; and I call your attention to the fact that on page 12, table 3, of Edwards' Exhibit 10, 12.24 per cent of the tonnage originated and terminated on the Mobile & Ohio is credited to the State of Illinois.

Mr. McCollester: Right here, Mr. Bell, I believe that Commissioner Alldredge wants to ask you a question.

The Witness: Pardon me.

By Com. Alldredge:

Q. I just wanted to ask you, Mr. Bell, if the records of the carriers are kept so that you can make such a separation as you suggest.

The Witness: Will you repeat that please, Mr. Reporter.

(Question read.)

A. Well, Mr. Commissioner, Dr. Edwards asked the carriers to make certain separations so that he could get, as I understand it, at the separation by territories. Now he asked the Louisville & Nashville Railroad, as I under- [fol. 3621] stand it, to give him a separation as between its lines in Official Territory, and the South; but it seems that the Louisville & Nashville only furnished him the line from Louisville to McLeansboro. Now, he asked the Illinois Central in his Form-B questionnaire, I believe, to make a separation of its different portions, that part of south of the Ohio River, and that part west of the Mississippi River, and the Illinois Central furnished the information. Now what I do not quite understand is that, taking a line like the Southern Railway, he did not ask the

Southern Railway to make a separation of its lines in Official Territory, just as the Louisville & Nashville Railroad was requested to make a separation, and just as the Illinois Central was requested to make a separation. It is just such things as that, that have given rise to so much controversy in many of the old proceedings before the Commission, where the operations of lines could not be segregated according to rate territories. Now certainly to my mind, at least, Dr. Edwards has not gotten the complete segregation of lines according to rate territories which he thought he was getting when he sent out his questionnaire for the separation.

By Mr. McCollester:

Q. In general, is the result that there are included in Southern Rate Territory portions of lines that are actually operated in Official Territory?

A. Yes, sir, that is correct; and there are included in the [fol. 3622] Pocahontas Territory lines that are operated in Central Freight Association Territory, if you were going to make a separation as between the two territories for the Norfolk & Western and the Chesapeake & Ohio.

Q. Continue.

A. Now, in Dr. Edwards' Exhibit No. 10, he shows distribution of tonnage by rate territories, which was taken from the reports of the railroads to the Commission, constituting now part of the Commission's statement Q-550. The excerpts from Dr. Edwards' Exhibit No. 10 define the Pocahontas Rate Territory as being the States of Virginia and West Virginia; and it will be noted that he has included portions of a great many lines in Official Territory on Eastern Territory, as being in the Pocahontas Rate Territory, which as a matter of fact has no existence, and should properly be credited to Official Territory. I might say in passing, reverting back to the Southern Railway, that Exhibit 10 shows that page 17, table 3, credits the Southern Railway with originating and terminating 7.74 per cent of its total tonnage in the States of Ohio, Illinois and Indiana, covering the entire Southern Railway System. While that is so credited in Exhibit No. 10, the entire Southern Railway in Exhibit No. 2 is credited to Southern Territory.

Q. Now, Mr. Bell, so far, in connection with your Exhibit No. 166, you have been directing attention to criti-

[fol. 3623] cisms of Dr. Edwards' allocation of railroads to different territories. Have you made some studies, which are set forth in parts 2 and 3 of your Exhibit No. 166, similar to studies which you made following the Southern Governors case, directed to the property of using average unit costs as an indication of relative levels of rates on any particular traffic, in different territories?

A. Yes, sir, I have, and also in the same territory. Those studies are shown in parts 2 and 3 of the exhibit. Part 2, pages 5 and 6, embodies the same kind of study I made in connection with the Southern Governors case, and compares the Southern Region railroads with those in the Central Eastern and Great Lakes Regions. The comparative costs are on a freight operating expense per revenue net ton-mile basis, also a net ton-mile basis, instead of employing a gross ton-mile basis, or a combination of the factors of costs per gross ton-mile plus terminal expenses, as used by Dr. Edwards.

Now, comparing Column 15 in group 1 of the Totals and averages on page 5 of the exhibit, which is the average freight operating expense per revenue net ton-mile for all Class 1 railroads in the Southern Region, with the bottom figure in Column 15, page 6, which is the corresponding figure for all Class 1 railroads in the Central Eastern and New England Regions, we find that the average in the Southern Region was 6.675 mills——

[fol. 3624] By Mr. Norman:

Q. What column, please?
A. Pardon me?
Q. Under what column?

Mr. McCollester: 15.

A. —for an average haul of 204 miles, as shown in Column 14-a. In the North it was 6.576 mills for an average haul of 164 miles.

Comparing the figures in Column 17, the average freight operating expense per revenue net ton-mile, including taxes and rents, 7.640 mills is the figure for the Southern Region, and 7.705 mills for the Great Lakes and Central Eastern Regions; the unit cost on all freight being slightly less in the Southern Region than in the North.

Now referring back to page 3 of my Exhibit No. 165, covering distribution of transportation burden, it is shown that in 1939 four railroads in the Southern Region,—the Clinchfield, Louisville & Nashville, Illinois Central and Southern Railway—originated 97.74 per cent of the bituminous coal originated in the Southern Region, and handled 88.3 per cent of all of the bituminous coal handled by all railroads in that Region. These four railroads, together with the Northern Alabama Railroad, which is a Southern Railway property operating in the Alabama coal fields, are the first five railroads shown on page 5 of my Exhibit No. 166.

Column 2, on page 5, shows that these four railroads, [fol. 3625] comprising group 3, originated 40,850,387 tons of bituminous coal, and that the group 6 railroads, comprised of all other railroads in the Southern Region, but excluding the Northern Alabama Railroad, originated only 1,801,229 tons. Group 2 in column 2 shows the total tonnage originated by these four railroads, with the Northern Alabama Railroad included; and group 5 shows the tonnage originated by all other Southern region railroads.

By Mr. McCollester:

Q. Let me interrupt you for just a moment there, please, Mr. Bell.

A. Yes, sir.

Q. Just to ask you if you have not made the various groupings of the railroads as indicated at the bottom of page 2, as to the Southern railroads, and as explained in the note at the bottom of that page, for the purpose of showing the variations between the railroads in the Southern Region, and how different groupings of the railroad produce different operating results.

A. Yes, sir.

By Mr. Norman:

Q. That is on page 5, is it not?

A. Yes, sir. And I might say that, comparing the Totals and Averages of the ton mile expense shown in columns 15, 16, 17 and 18, with the coal carrying roads eliminated, as indicated in these numbered groups, it shows that the expense in the Southern Region for the other railroads was [fol. 3626] substantially greater than in the Central Eastern and Great Lakes Regions. Now the figures for the

individual railroads shown on pages 5 and 6, were taken, or computed, from the Commission's Freight Commodity Statistics, which include in the Southern Region all portions of the line of the Illinois Central Railroad. The Traffic Department of the Illinois Central Railroad has advised me that out of the 10,211,664 tons of bituminous coal originated on that line in 1939, 7,194,364 tons originated on the lines north of the Ohio River. Dr. Edwards has not included those lines in Southern Territory. 3,017,300 tons of the coal originated by the Illinois Central Railroad was in Western Kentucky, and 1,426,185 tons of this coal moved to destinations north of the Ohio River, and to destinations west of the Mississippi River, moving through the River Crossings, Cairo, Illinois, and north thereof. I might mention incidentally that the Louisville & Nashville Railroad only originated 2,950 tons of coal on its line in Illinois, a portion of which was included by Dr. Edwards in Eastern Territory.

In view of this Illinois Central situation, in columns 7 through 12, I have eliminated any figures for that line.

Now here is something that I want to call particular attention to. The Louisville & Nashville Railroad originated 23,271,940 tons of bituminous coal in 1939. Its low freight operating expense per revenue net ton mile, also [fol. 3627] when including rents and taxes, is shown in columns 15 and 17 on page 5 of the exhibit. The average miles operated in freight service by the Louisville & Nashville Railroad in 1939, were 4,898 miles, all of which was in the States of Kentucky, Tennessee, Georgia, Alabama and Mississippi, except for 205 miles in Indiana and Illinois, approximately 200 miles in the western part of Northern Florida, and a small mileage in Southwestern Virginia.

Of the 23,271,940 tons of bituminous coal originated by the Louisville & Nashville Railroad, according to the Ohio Bureau of Coal Statistics, 15,493,389 tons moved from its Eastern Kentucky districts to destinations north of the Ohio River and west of the Mississippi River, including 5,352,061 tons of lake-billed coal delivered to its Central Freight Association connections. The average distance from these Eastern Kentucky districts to Cincinnati, Ohio, over which line this coal was transported, is 240.2 miles. Thus it will be seen how this 15,493,389 tons of coal was concentrated on less than 5 per cent of the Louisville & Nashville Railroad total mileage.

Also, the Traffic Department of the Louisville & Nashville Railroad has advised me that of the remaining 7,778,551 tons of coal priginated, 2,558,750 tons originated in Western Kentucky, and that 556,970 tons of it moved to the Ohio River Crossings of Louisville, Kentucky, Evans-
[fol. 3628] ville, Indiana, and Henderson, Kentucky, and destinations beyond those gateways into Central Freight Association Territory. The hauls of the Louisville & Nashville Railroad to the river gateways are comparatively short. Thus only 31 per cent of the total tonnage of bituminous coal originated by the Louisville & Nashville Railroad was left for distribution for destinations scattered over its 4,898 miles of railroads, and at points on other railroads throughout the Southern Territory.

It does not require any great mental effort to arrive at the conclusion that the low operating cost of the Louisville & Nashville Railroad, as a whole, has been due to the low cost of transporting the tremendous Eastern Kentucky coal tonnage destined to points north of the Ohio River over only 240 miles of its line in Eastern Kentucky; also being influenced, to some small extent, by the 556,000 tons moving for short distances from Western Kentucky to the Ohio River gateways.

The Clinchfield is essentially a coal-carrying railroad, with a mileage of 308 miles, extending from the Kentucky & Southwestern Virginia coal fields to Spartanburg, South Carolina, on the Northern South Carolina border. The Northern Alabama Railroad, as I have said, is a Southern Railway property in the Alabama coal producing section.

The Southern Railway's freight operating net revenue ton-mile expense was much higher than that of any of the
[fol. 3629] other railroads in the coal-carrying group. It is the only railroad traversing all sections of the Southern Region, from Virginia to the Gulf and the Mississippi River. Here again it does not require any great mental effort to arrive at the conclusion that its higher operating expense per ton mile is due to the fact that its coal is originated only in a small section of Alabama, and small sections of Tennessee, Kentucky and Southwestern Virginia, respectively, except, I may say parenthetically, that of the 4,725,000 tons of bituminous coal originated by the Southern Railway in 1939, 1,409,620 tons were originated in the State of Indiana, and its movement was in Central Freight

Association Territory, and is therefore not to be credited to Southern Territory.

The fact that the operating expense of the Illinois Central in the Southern Region was greater than on its lines north of the Ohio River, is indicated by the fact that with the inclusion of the figures for the Illinois Central System with the Southern Region Railroads, the operating expense per net revenue ton mile was 6.675 mills for the entire group of railroads,—column 15, group 1; whereas its exclusion from the Southern Region—the group 7—increased that ton mile figure to 6.842 mills.

Now page 5 of my exhibit, taken in connection with the facts which I have related, exposes the fallacy of employing average unit costs in the Southern Region as a base for the [fol. 3630] determination of freight rates for application in all sections of that region; and it is exposed in even greater degree by part 3 of this exhibit.

By Mr. McCollester:

Q. Now right there, before you touch on part 3 of the exhibit, Mr. Bell, so that it may appear in the minutes at this point: These figures on page 6 as compared with those on page 5, part 2, of the exhibit, indicate that coal and coke tonnage in proportion to total traffic handled is much more evenly distributed among the various railroads in Official Territory than among the several railroads that are treated as being in the Southern Region; is that correct?

A. It shows that very decidedly, yes, sir, and it also shows that the railroads in the Central Eastern and Great Lakes Regions have a backlog also of a heavy tonnage of products of mines in general, which is not the case with the Southern railroads.

Q. Now will you please take up and discuss part 3 of your Exhibit No. 166.

A. Part 3 of the exhibit contains the information which is indicated on the title page, which is page 7. The railroads shown in this part of the exhibit are confined to those in the Southern Region. Section A, pages 8 and 9, is designed to show the operating expenses and the factors of those expenses more fully than are shown in part 2 of the [fol. 3631] exhibit, including the per car mile expense, together with some operating averages. The ton mile expenses correspond with those shown in part 2 of the

exhibit, except that in part 2 they are shown in mills per ton extended three decimals, whereas in part 3 they are shown in fractions of cents per ton mile, and the equivalent mills per ton mile extended only to the second decimal.

The railroads are shown on each page of part 3 in the same sequence as in part 2. Groupings in the tables and averages differ to some extent from the groupings in part 2. In part 3, as in part 2, one set of the groupings, namely, groups 1 to 5, inclusive, include the Illinois Central Railroad, it being excluded from the second set of groupings, groups 6 to 9 inclusive.

I have already mentioned the effect upon the ton mile freight expense of the Southern Region, by the exclusion of the five coal-carrying roads appearing at the top of the page, at page 8, and also with the Illinois Central Railroad excluded. The corresponding figures are shown in groups 4 and 8, respectively, except that the average freight operating expense per revenue ton mile is shown in column 13 of Section A, part 3, instead of column 15, and the expense, including taxes and rents, is shown in column 15 in part 3 and in column 17 in part 2.

In addition to the amplification in part 3 of the costs [fol. 3632] shown in part 2, and the inclusion in part 3 of certain operating averages, I have also shown in the table of Totals and Averages the figures for the Cincinnati, New Orleans & Texas Pacific; Alabama Great Southern; and New Orleans & Northeastern. These three roads, all parts of the Southern Railway System, for many years before they were acquired by that system, and also since, formed what were known as the Queen & Crescent route from Cincinnati, Ohio to New Orleans, Louisiana. Roughly speaking, they paralleled the main line of the Louisville & Nashville Railroad through the same general territory. Although the Cincinnati, New Orleans & Texas Pacific originates and terminates considerable traffic, it is really in the nature of a bridge line between Cincinnati, Ohio, and Chattanooga, Tennessee. The Alabama Great Southern, extending from Chattanooga, Tennessee, to Meridian, Mississippi, passes through the great Birmingham industrial district, and in addition to originating a very considerable traffic, is also in the nature of a bridge line. The New Orleans & Northeastern, extending from Meridian, Mississippi, to New Orleans, Louisiana, is also in the nature of a bridge line. These three railroads, comprising group 3 in the exhibit,

are among the most prosperous railroads in the South, and, as will be seen by referring to column 13 and 15, on page 8 of the exhibit, their freight operating expense per freight revenue net ton mile is even lower than that of the [fol. 3633] coal-carrying roads. A study of the figures of the individual railroads, and of the Totals and Averages, will readily disclose how greatly the freight operating expenses of the other Southern Region railroads exceed those of the coal-carrying roads and the three bridge lines that I have mentioned. I direct particular attention to columns 15 and 17, which show the freight operating expense per revenue net ton mile, and that expense with taxes and rents included.

Now I call attention to the fact that, with the exception of the Southern Railway, which traverses all sections of the South, and with the exception of the coal-carrying Clinchfield Railroad, whose 308 miles of line cut through Tennessee and North Carolina to the South Carolina border, the freight operating expense per net ton mile of the Southern railroads, the rails of which mainly serve Virginia, North Carolina, South Carolina and Florida, is measurably greater than that of the railroads traversing the coal-producing areas, and that of the three bridge carriers mentioned, in the western part of the South. The railroads traversing Virginia, the Carolinas and Florida are the Atlantic Coast Line, Seaboard Air line, Norfolk & Southern, Florida East Coast, and the Charleston & Western Carolina. That the expense of the Charleston & Western Carolina more nearly approaches that of the coal-carrying railroads and the bridge lines, is due to the heavy tonnage of coal [fol. 3634] delivered to it by the Clinchfield Railroad at Spartanburg.

Section D of part 3, pages 10 and 11 of the exhibit, shows the net railway operating income; the operating ratio; the rate of return, based on book investment; and the net income of the individual Southern Region railroads and groups of railroads. These are shown in the same sequence as in section A of part 3, also the same groupings. Page 10 contains the information for all services and for freight services, while the information for passenger and allied services is shown on page 11.

Page 11 shows there was not a railroad in the Southern Region which did not show a deficit in 1939 from passenger and allied services. Taking the first five groups in the

Totals and Averages, in which the Illinois Central is included in the Southern Region, it will be observed from column 19 that the coal-carrying roads showed a slightly smaller deficit per mile of road than the average for all of the railroads in the region.

[fol. 3635] However, the three bridge lines in Group 3 showed the heaviest deficit per mile of road. The deficit on all the railroads, excluding the coal-carrying roads shown as Group 4, was slightly in excess of that for the Group 2 coal-carrying roads, but excluding those roads and the three bridges roads, comprising Group 3, the deficit per mile of road for the other railroads included in the Group 5, that is the other rails in the region, was less than the average of all the railroads shown as Group 1, also less than the deficit for the coal-carrying roads and very substantially less than the deficit for the bridge roads. The comparisons are not substantially different for Groups 6 to 9, inclusive, in which the Illinois Central is not taken into consideration.

When we come to comparisons for freight service, shown on page 10, and for all services on that page, they tell a different story, as will readily be seen by comparisons afforded in the table of Totals and Averages, which clearly shows the much greater net railway operating income per mile of road for the coal-carrying roads and the three bridge roads than in other parts of the South. The complete story is told in the comparisons for all services in which the passenger services have been offset——

By Mr. McCollester:

Q. Passenger deficits.

A. Passenger deficits have been offset in the freight service net railway operating income. I should like per-[fol. 3636] mission to mention just a few of the average figures. The average net railway operating income per mile of road of Group 1, all the railroads, including the Illinois Central, was $2,073. That of the coal-carrying roads was $3,122. That of the bridge railroads was $8,711. Excluding the coal-carrying roads, the figure for all other railroads in the South was $1,103, and excluding also the three bridge railroads, the average for all other roads was $762. Also note the decided difference in the rates of return shown in Column 5. The striking thing shown by Columns 6 and 7,

on page 10, is that of the 19 railroads, none of which was included in the coal-carrying group or among the three bridge railroads, 11 of them showed deficits in net income; whereas, not a single one of the coal-carrying roads, or the bridge railroads showed a deficit. With the coal-carrying roads excluded——

By Chairman Aitchison:

Q. Wait a minute, that takes into account their accruals for interest?

A. I presume it does, Mr. Chairman.

Q. Whether paid or not?

A. Well, without going back into the record, I couldn't answer that.

Q. This is not net operating income that you are giving; this is net income, isn't it?

A. This is net income for the year 1939, as taken from the reports of the carriers.

[fol. 3637] Q. If they kept their accounts correctly, they would charge it to accruals, wouldn't they, whether they paid them or not?

A. Yes, as I take it, it would include accruals.

Q. Now, how many of them are in bankruptcy and did not pay?

A. Well, let's see. We know that the Seaboard Airline was; the Florida East Coast was in the hands of trustees. I can spot those two definitely, but as to the others, I don't know whether they are in the hands of trustees or not. I think Central Georgia is also in the hands of trustees.

By Mr. Norman:

Q. Well, Column 3 shows the net railway operating income, which does not include interest charges, and that shows they all had a net railway operating income.

A. I didn't say that. I was talking about net income.

Q. I know, but——

Chairman Aitchison: What page are you on now, Mr. Norman?

Mr. Norman: I am on page 10, Column 3, which shows the net railway operating income. That portion does not include interest payments, and of course they all show that they had a net railway operating income.

The Witness: Column 6 is one which shows whether they had any net income or not.

By Mr. Norman:

Q. They all had a net income too.

A. What is that?

[fol. 3638] Q. Well, you have got one or two deficits here.

A. They did not have a net income. What is the matter with you?

Mr. Norman: Oh, yes, I see that.

The Witness: Now, with the coal-carrying roads excluded, all other railroads in the Southern region showed a deficit of $222 per mile of road, and with the exclusion of all of the three bridge railroads, the deficits increased to $528 per mile of road.

During the first part of my discussion, Part 3, I stated that averaging of costs does not afford a proper basis for determing a rate level in a single territory where, by reason of the difference in the character and volume of the traffic handled, the costs are much lower in one section than in another. I think that the comparison shown in Part 2 and 3 of Exhibit 166 substantiates that assertion.

By Mr. McCollester:

Q. Mr. Bell have you now certain comments to make in connection with Witness Saunders' Exhibit 86, and have you prepared, as Part 4 of your Exhibit 166, certain showing with reference to Mr. Saunders exhibit?

A. I have. The narrative which was attached to Witness Saunders' statement No. 5 of his Exhibit No. 86 states it was prepared to show a number of comparisons. Seemingly it was prepared primarily to show that the cost of transporting freight is lower in the South than in other terri-

[fol. 3639] tories, particularly in the Eastern district, based on all tonnage originated, regardless of its character, and premised upon the purported unit costs shown in Dr. Edwards' exhibits, as supplemented by Witness Saunders. Mr. Saunders said, among other things, that the first purpose of the exhibit is to show the relative importance of the commodities handled in each of the several regions in the United States and for the United States as a whole; that it was thought that if the commodities were compared with

at least 75 per cent of the cars originated, it would afford a very fair basis of comparison of one district with another.

In the first place, Statement No. 5 of Exhibit No. 86 does not show the relative importance of the various commodities handled in each of the several territories, taking Mr. Saunders' statement at its face value. The Southern region and the Pocahontas region are the only regions which Mr. Saunders has shown separately. The New England, Central-Eastern and the Great Lakes regions are not shown separately but are shown as the Eastern district. Likewise, the Northwestern region, the Central-Western region and the Southwestern region, comprised of the great expanse of territory west of the Mississippi River to the Pacific Coast and from the Canadian border to the Gulf of Mexico, are blanketed in the showing for the Western district.

In so far as this proceeding is concerned, the statement [fol. 3640] is without apparent value because it does not begin to show the composition of the traffic embraced in the class rate structure or even the traffic which might possibly be so included. For example, Mr. Saunders stresses the volume of the movement of bituminous coal east of the Mississippi River and in the respective coal-producing regions. Coal is an important traffic and it usually leads the volume of traffic originated in these districts, but when it comes to show the cost of the traffic affected by this proceeding, it means nothing. It shows that 13.82 per cent of the cars originated and 22.94 per cent of the tons originated in the Western district consisted of iron ore. As I have already testified, 83 per cent of the iron ore in country is produced in the Lake Superior district and accounts for more than 50 per cent of the originated tonnage of the Northwestern region, moving for short rail hauls to the lake ports for transshipment by vessel. How this movement shows the importance of commodities moving throughout the whole of the territory beyond the Mississippi River is beyond my comprehension.

Witness Saunders stated that another purpose of the exhibit is to show the types of cars used in each district, and he points especially to his calculation showing the loading of box cars in the Southern region and the Eastern district. His figures for box car traffic in the Eastern [fol. 3641] district include only six commodities loaded in box cars, namely, manufactures and miscellaneous—which,

by the way, are largely loaded in other types of equipment—autos and autotrucks, K. D., and parts, n. o. s., cement, passenger automobiles, mill products, n. o. s., and machinery. I may say here that a large part of the machinery shipped in this country is not loaded in box cars, but in open equipment. He shows no commodity in the Eastern district loaded in refrigerator cars.

For the Southern region, he shows nine commodities loaded in box cars and one commodity loaded in refrigerator cars. The first box car item is lumber, shingles and laths.

Lumber moves very largely in open equipment, particularly the rough lumber. The next item is manufactures and miscellaneous. Many of the commodities of this group move in other types of cars. Fertilizer comes next, followed by cement; cotton, paperboard; pulpboard; wallboard; leaf tobacco; and products of forests, n. o. s. Much of this last-mentioned group moves in other types of equipment.

In Part 4, page 12 of my Exhibit 166, I have shown the commodities shown by Mr. Saunders for the Eastern district and for the Southern region, and I have also shown the rank of each commodity, according to the number of cars originated and according to the tone originated.

[fol. 3642] Page 12 shows that, according to Mr. Saunders' own figures, that the car position of the volume of traffic in the two sections is very different. Of the 17 commodities which Mr. Saunders showed conssitute 75.34 per cent of the cars in the Eastern district, which, by the way, total 10,281,000 cars, only six of them, totaling 1,901,000 cars, are shown by him as originating in the Southern region. These six commodities, all of them low-grade, constituted 42 per cent of the total cars originating in the South. Page 12 of the exhibit also shows that of the 21 commodities shown for the South by Mr. Saunders, 15 of them, constituting 33.28 per cent of the cars originating in the South, are not shown by Mr. Saunders for the Eastern district.

He shows in Statement No. 5 that the average loading of box car traffic in the Eastern district, based upon the six commodities I have mentioned, is 21.74 tons; compared with an average loading in the South of 26.07 tons, based on nine commodities. He shows but one commodity in the Southern district loaded in refrigerator cars, but in his averages, the

impression would be left that the loading of this commodity represents the average loading of all refrigerator cars.

Now, in Section 2, Part 4 of my Exhibit 166 is shown, for all commodities in I. C. C. Statement No. 41200, which were designated as box car and refrigerator car traffic in Ap- [fol. 3643] pendix C to Witness Edwards' Exhibit No. 2 in the Eastern district and the Southern region in 1941, the same character of information as is shown in Witness Saunders' Exhibit No. 86. The totals and averages on page 14, show the fallacy, if not the probably unintended unfairness of Mr. Saunders' figures.

Q. Is that all you have on Exhibit 166, Mr. Bell?

A. I think it is, sir. I will see. That is all on that exhibit.

Chairman Aitchison: Do you want to take a recess here?

The Witness: I would like one.

Chairman Aitchison: We will take a recess for a few minutes.

(Recess taken.)

Chairman Aitchison: Come to order.

By Mr. McCollester:

Q. Mr. Bell, have you any brief comment to make in connection with Dr. Edwards' studies as to his allocation of commodities to different classes of equipment?

A. Well, I could comment quite at length on it, Mr. McCollester, but I think it is sufficient to say that the allocations to equipment, as shown by Dr. Edwards, differ very substantially from my knowledge and from investigations which I have made; also from estimated distribution of carload freight originating by classes of equipment which were [fol. 3644] made by certain officials of the Association of American Railroads, and as to iron and steel by the manager of the district committees in the Pittsburgh section and the inspector of the Trunk Line Freight Inspection Bureau.

Q. Will you just give a couple of examples.

A. Well, Dr. Edwards shows that iron and steel articles are all gondola traffic. The Association of American Railroads officials have estimated, in data they furnished to the Office of Defense Transportation, that 34 per cent of the iron and steel traffic, rated fifth class and that rated sixth class, moves in box cars and the remainder in open-top cars. The estimates which were made by the Pittsburgh people I

just mentioned say that it is impossible to ascertain with exactness, but they think it is very close to 50 per cent in box cars, although that most of it does move in open-top equipment. Now, Dr. Edwards has shown the lumber list as moving altogether in box cars. Now, I happen to know that a great deal of the rough lumber is loaded in open-top equipment. I have seen too much of it moving and too much of it loaded.

Another item that he shows is machinery as being loaded altogether in box cars; also agricultural implements. There are certain kinds of agricultural implements, such as harvesters and threshers and binders and so forth, and the estimate of the International Harvester Company, about the [fol. 3645] biggest in the country, is that it goes about 50—50, 50 per cent in box cars and 50 on open cars. Now, machinery, the same estimate has been made, and that is also the estimate made by the AAR officials.

Dr. Edwards has shown on the fruit and vegetable list 100 per cent moving in refrigerator cars.

By Chairman Aitchison:

Q. How much?

A. 100 per cent. That varies. Oranges and grapefruit move 50 per cent in box cars and 50 per cent in refrigerators, according to the AAR.

Q. 50 per cent oranges and grapefruit?

A. Yes, sir, that is their estimate.

Q. From what territory?

A. They didn't say what territory. This is supposed to be for the United States as a whole; but that is the estimate. I, myself, have always thought that oranges and grapefruit moved in refrigerator cars, Mr. Chairman, but I am giving you the estimate that was furnished by the AAR people to the Office of Defense Transportation.

Q. Did you check those as against anything, the testimony, for instance, in the refrigerator car cases?

A. No, I did not. I didn't have time. I got this information just before I left Washington.

Q. Would you be willing to accept those figures and have Dr. Edwards recast his statement accordingly? Would that [fol. 3646] take care of your objection on that score, if those figures are used?

A. I think I would be willing—no, I would not be willing to accept it at its face value throughout, the statement of

the estimate of the AAR officials, because I know myself that some of these items move in different kinds of cars. For instance, this AAR list shows 100 per cent of the movement of lumber in box cars. I know that 100 per cent lumber does not move in box cars.

Q. I won't quarrel with you on that. I have seen too many of them that had snow and grass on them.

A. On open-top cars, yes. But I do not think, though, that Dr. Edwards' allocations can be accepted for the purpose of calculations in this proceeding. How, if you are going to have another hearing, then I should be very glad to go into this whole question a little further, if you will permit me to do it.

Q. Well, would you be willing to submit in advance of the hearing the figures that you think would be representative?

A. Or I will be very glad to talk it over with Dr. Edwards.

By Mr. McCollester:

Q. Now, Mr. Bell, have you prepared for the information and convenience, if it may be called such, of various parties to the proceeding, and particularly the Commission's staff, an analysis of the classification which is embodied in your Exhibit No. 167?

[fol. 3647] A. Yes, sir.

Mr. McCollester: I will say, Mr. Chairman, that I don't know whether this exhibit comes under the category of evidence in the sense that it is intended to prove anything or support any particular contention; but I think that the exhibit is the most complete analysis of the classification that has been made. It certainly is the most complete that has come to my attention, and I think that in considering the problems incident to the possibility of a uniform classification or changing the classification ratings, the information shown in the exhibit will be very useful and it is for that purpose that we offer it. I don't know yet what arguments we, ourselves, will attempt to make from it.

By Mr. McCollester:

Q. Will you very briefly, Mr. Bell, explain the make-up of the exhibit.

A. I think the make-up of it is pretty well shown on the title pages to section 1 and section 2. Section 2 shows in detail, as explained on the title page of that section, the

articles that are assigned the same carload standard class ratings, exclusive of tank car ratings, in the Official, Illinois, Southern and Western classifications, that is, the so-called "matched" ratings. Next shown are the column ratings or the class and column ratings, as the case may be, which are accorded the same percentage of first class in the certain territories and the so-called "mismatched" carload ratings, [fol. 3648] that is articles assigned the same ratings in the Official Classification and different ratings in one or more of the other classifications. Next are shown the carload tank car ratings and the mileage ratings.

Now, what I have done in Section 2, I have taken every item in the classification and have taken the Official Classification ratings as the base for measuring the other ratings, and I have shown under each of the ratings "matched" or "mismatched", as the case may be, and according to the carload minima accorded to the commodity, all of the items that are shown in the classification. In addition, I have shown the corresponding less than carload ratings. And I was surprised to find the number of combinations which were in existence in the classification.

Section 1 of the exhibit is a series of summaries, and I call attention to Summary B, which starts on page 2, and that indicates as to the carload ratings the number of ratings that are assigned in the "matched" classes, each of the "matched" classes as to each carload minimum, and the same with respect to the "mismatched" classes. For instance, what I mean by the "mismatched" classes, you will note that, for instance, just looking at random, on page 5 you will find the reference to the articles which are rated third class in Official, 40 per cent, Column, in Illinois; fifth class in the South and Class A in the Western Classification. It [fol. 3649] is true there is only one item so rated and throughout the whole classification we find many items of this character, where there are only one or two ratings in the set of ratings referred to.

Now, on page 22 of the classification, there is a summary of the situation I have mentioned which shows that there is a total of 283 class and column ratings, combinations, within the four territories, out of the 10,391 ratings.

Now, I am holding no brief for the present classification as such. I think it is susceptible of a great deal of improvement, and certainly that many of these ratings which I have shown of this character, where there are only one or two

ratings that differ in the different territories, could very easily be reconciled; but I do not think that a uniform classification, covering all the articles and commodities in the United States, can be evolved just out of the air, so to speak, in this proceeding, and I think that before any effort is made to arrive at a uniform classification, that the shippers and the railroads must be given every opportunity for consultation and that the Commission itself will want to study the ratings on the different items, and that was one of the purposes in making this analysis as complete as I did. I wanted the Commission to see just what commodities and what articles are embraced in these different classes, according to the carload minima and according to their less than [fol. 3650] carload ratings, instead of simply furnishing you a composite statement that there are so many ratings in a given class, in each classification, and think that the classification could be changed by taking 100 ratings here and there and another 100 ratings somewhere else that are rated differently and putting them together.

However, if you will look at page 25, Summary F, you will notice that that does show the number of ratings in the respective classes in the Official classification and the distribution of those ratings throughout both the Southern and the Western Classification. That is as with respect to the carload ratings. Now, the less than carload ratings are shown in the same manner in Summary G, on page 27.

Now, to illustrate what I have in mind in saying that I do not think it possible to attain a uniform classification unless there are conferences with the shipping public and between the Commission and the carriers, I call attention to Exhibit 168. Looking at the left-hand column, Section A, for example, which shows the Official versus Southern Classification ratings. Now, under fifth class——

Q. That is on page——

A. That is page——

Q. Not really page, is it, but the second sheet.

A. The second sheet. Under fifth class in the Official Classification, which is assigned 35 per cent of first class, [fol. 3651] you will notice 2,710 carload ratings. Now, the distribution of those ratings is shown under the heading "Southern Classification", showing the number that are third, fourth, fifth, sixth and so on down the line. Now, assuming a first class rate of $1 in Official Territory, mani-

festly the fifth class rate would be 35 cents. On the assumption that the first class rate in the Southern Territory is 138 per cent, that infers the rate would be $1.38.

Now, in the rate column, under the Southern Classification, have been worked out the rates in effect in the South, based on the classification ratings existing in the South. Then I have shown the effect of the application of the Official rate levels on rates subject to the Southern Classification for the Official ratings—no, just a minute,—the effect of their application on rates subject to the Southern Classification. It shows the reductions which would result in cents per 100 pounds and also where there are increases.

Now, the next set of figures shows the effect of the application of the Southern rate levels on rates subject to Official Classification. It just goes to show that if you tried to establish a parity of rates and the same percentage relationships in this proceeding of the varying amounts or degree of the reductions and the number of reductions or increases that you would have to make in the 2,710 car- [fol. 3652] load items, which are rated fifth class alone in the Official Classification, or, if, on the other hand, that you were to raise the rates in Official Territory to the level of the Southern rates, the effect it would have if that were done.

Now, in Section B I have undertaken to show the same information with respect to Western Classification, and I should like to mention that Section A does not cover all of the classes but is simply put there as representative.

Q. Now, Mr. Bell, just so that we may understand the mechanics of this thing, will you again look at the fifth class rating in Section A, where it shows the fifth class in Official Classification. I note there that the largest number of items, which in Official Territory are rated fifth class, appear to be rated sixth class in the Southern, that 1,646 of the 2,710 items, is that correct?

A. Yes, sir.

Q. And that sixth class rate, assuming a dollar rate in Official Territory for first class, the sixth class rate in Southern Territory would be 55 cents?

A. That is correct.

Q. But if——

A. And if you were to put the Official ratings up to the Southern level, that would be the effect, the disruption in Official Territory.

[fol. 3653] Q. To rate the commodity the same in the South as in Official and apply the Official rate level would mean a reduction on those 1,646 items of 20 cents?

A. That's right.

Q. Whereas, if you brought out the uniformity on the basis of extending the Southern level to Official Territory, you would have an increase of 57.1 per cent?

A. That is correct, or 20 cents. It just goes to show, in my opinion, Mr. McCollester, that this thing cannot be just handled haphazardly. I don't mean to infer that the Commission would do that. And to my mind, in working out any, or attempting to work out a uniform classification, you can't do it without you taking into consideration at the same time the levels which should be prescribed in the two territories; and I am holding no brief for the level in the Southern Territory. My whole point is that, in principle, you have got to continue a territorial basis of rates for the reason which I have already mentioned.

By Chairman Aitchison:

Q. You include in Section B the Western Territory, Western Classification, do you not?

A. I have it before me.

Q. And on the first sheet of Exhibit 168, you show certain percentage relationships of classes under the Western Classification. Are those uniform in the territory where the Western Classification applies?

[fol. 3654] A. So far as the general application of the classification is concerned. Of course, there are exceptions in all territories. I don't mean that those are exceptions, but there are exceptions to the ratings in all of the territories.

Q. Isn't it a fact that you have about two-thirds, in geographical area of the territory subject to the Western Classification a different set of percentage relations applies than you show on the title page of Exhibit 168?

A. Well, I couldn't answer as to the amount of traffic. I think that is very largely——

Q. I said geographically.

A. I don't think that would be generally true.

Q. Are you familiar——

A. I have not studied, to be frank with you, Mr. Chairman, I have never studied the Western Classification situation as much as I have the Official and the Southern.

Q. Well, isn't it a fact that by the action of the Commission, starting back in the old Portland Chamber of Commerce case, along about 21 I. C. C., that a different percentage relation was established between classes than is shown here, and that that percentage relation has extended over virtually the entire Mountain Pacific area?

A. I think you are correct, from what I have read of the previous cases.

Q. It will help, for the record, I can state them. I will give them right straight down the line, from first class to [fol. 3655] Class E: 100, 85, 70, 60, 50, 50, 40, 30, 25 and 20.

A. Well, the relationships shown in Exhibit 168 and also those in 167 are the relationships in the Western Territory, following as a result of the Western Trunk Line and Southwestern cases, which, of course, did not take into consideration the Mountain Pacific Territories.

Q. So your answer and your exhibit will both be limited to the territory which was embraced in the Western Trunk Line and the Southwestern cases?

A. Yes. It would, in absence of any showing or any detailed knowledge of what is in effect in the Mountain Pacific Territory.

Q. Now, just assume I am right on those percentages, and I think it will be found I am. The fourth class in the Mountain Pacific area, which is part of the Western Classification territory, is 60 instead of 55; the fifth class is 50 instead of 37.5; the Class A is 50 instead of 45; the Class B is 40 instead of 32.5. Class C is the same. Class D is 25 instead of 22.5, and Class E is 20 instead of 17.5. That would make quite a difference in your Section B, wouldn't it?

A. Yes, it would, but the principle still holds good that I have mentioned. You still have, in my opinion, very great or serious difficulties or discruption in your traffic and in the ability of the shippers in the different terri- [fol. 3656] tories and in the same territories to continue in a business unless you exercise very great care in making the ratings in the Mountain Pacific territory, if you please, conform to the ratings in the other territories; just for the

same line of reasoning that I mentioned in connection with the comparison as between ratings in the Official Classification and the Southern Classification. As I say, Mr. Chairman, I don't mean to contend that the classification is perfect, by any means, but I think you have got to take it by stages, unless you want to entirely disrupt the whole rate structures simply for the sake of uniformity and without respect to the effect it is going to have on the movement of traffic and the ability of various shippers to compete with each other.

By Commissioner Alldredge:

Q. If you multiplied the number of classes and reduced the spreads between them, would that facilitate the uniformity?

A. It would simply ameliorate the situation I have described, in degree.

Now, let me give this illustration: assume that you undertook to fix three different rate levels, or we will take two different rate levels, to simplify the illustration, as between the Official and the Southern territory, and that you would undertake to publish column rates with 100 as the norm. Now, today, in Official territory, the 2,710 items I have mentioned in fifth class are 35 per cent, so with a dollar [fol. 3657] rate that means a rate of 35 cents in Official Territory.

Now, in the South, with a level which is 38 per cent higher on first class, the rate would be $1.38 and fifth class in the South today is 45 per cent of first. So we find, then, today, a rate of 35 cents in Official Territory as compared with a rate of 62 cents in Southern Territory.

Now, let's assume that you were going to make the rates in both territories 40 per cent of first class and that you will continue the Official level, first class, at a dollar, and that you will continue the Southern level at $1.38. Now, that 40 per cent basis would increase the Official Classification rates from 35 cents to 40 cents. It would reduce the Southern rate from 62 cents to 55 cents.

Now, if you should undertake to make the rates in the South 110 per cent of first class, it would have the effect of reducing the fifth class rate in the South from 62 cents to 44 cents and it would increase the Official level from 35 cents to 40 cents.

By Mr. McCollester:

Q. Now, you have used 40 there because it is half way between the Official percentage of 35——

A. That is right.

Q. And the Southern percentage of 45?

A. That is the reason I took it, just to take a half-way point there. So you would see that you would get the [fol. 3658] disruption I have talked about, no matter how you attempted to fix the levels in each territory, the first class on a norm and then to use the uniform columns throughout all of the territories. It would have a very serious disruption upon the traffic and revenues of the carriers, and, as I have just said, I think it is something that this Commission should approach with great care and should give the shippers and the railroads an opportunity to sit down with them and go through every one of the items which would be affected before any uniform ratings are prescribed.

Q. Mr. Bell, were Exhibits Nos. 165 to 168 prepared by your organization, under your personal supervision and direction?

A. They were.

Q. Are they correct, to the best of your knowledge and information?

A. They are.

Mr. McCollester: We offer exhibits which have been marked 164 to 168, inclusive, in evidence.

Chairman Aitchison: Without objection, they are received.

(Exhibits Nos. 164 to 168, inclusive, Witness Bell, received in evidence.)

By Mr. McCollester:

Q. Is there anything further you care to state on direct examination, Mr. Bell?

A. No, I think that is all, Mr. McCollester. It seems to [fol. 3659] me I have said enough.

Mr. McCollester: The witness is tendered for cross-examination.

Cross-examination.

By Mr. Norman:

Q. Mr. Bell, referring first to your last exhibit, 168, on the second sheet, the illustration you were giving as to the 2,710 articles rated fifth class in Official Territory, of which 1,646 are rated sixth in Southern Territory. Those are simply the ratings, are they not? You don't mean to say that 1,646 of them are moving in the South on sixth class?

A. Oh, no. This is strictly a classification proposition, Mr. Norman, and doesn't include any exceptions or column ratings or commodity rates.

Q. So that if it would be true that many of them are moving on exceptions lower than sixth class, the reduction, by applying the Official Classification, wouldn't be 20 cents or 36.4 per cent as it would be if they were moving on the ratings?

A. Well, will you permit me to say something in that connection, Mr. Norman, I intended testifying to on direct?

Q. All right, go ahead.

A. When I had this Exhibit 167 compiled, I had a very ambitious idea of undertaking to show in connection with each rating in each classification the exception or column [fol. 3660] rating in each classification, and I found that it was such a stupendous job that it couldn't be done within two or three years. I spent two weeks making a test, and that is largely due not only to the number of exceptions in the different territories, but largely by the different items included in some of the exceptions. For instance, in the exceptions to Curlett's Tariff I. C. C. A-748 in the automobile parts there are 249 items included in the list of exceptions.

Chairman Aitchison: Mr. Norman, do you mind my asking a question?

Mr. Norman: Certainly, go ahead.

By Chairman Aitchison:

Q. I want to ask you, as an old traffic man, wider experienced than any of us around here, what you think about the classification situation as it has been affected by this practice of putting in wholesale exceptions.

A. Wholesale exceptions? Looking at it from a standpoint of publication and the classification itself, it would seem that there is no excuse for it; but looking at it from a practical standpoint, I think there has been every excuse for it or every reason for it, because you are trying to make the exceptions on which the constantly changing conditions affecting the traffic must be reflected. Now, I am not prepared to say, Mr. Chairman, I think all the exceptions should be continued. I think, frankly, that a great many [fol. 3661] of them could be reconciled or harmonized, and also a great many of the exceptions could be harmonized together in the classification.

Now, the exceptions are not as bad as it would seem, because you take in the Official Classifications, Mr. Jones and Mr. Curlett and the New England agents, you have got three different exceptions published. That is tariffs, but when you compare them you will find that nearly all of the exceptions are the same so far as the ratings are concerned and so far as the descriptions are concerned, and they could very well be consolidated, in my opinion, into one publication.

By Mr. Norman:

Q. Couldn't they be put into a class?

A. To the extent—yes, in Official Classification, but I wouldn't say that that same class, that you could get a uniform class for the South and for the Official and for the West, because the exceptions and the percentage relationships to first class differ in the different territories to meet the needs and requirements of the respective territories. Now, when you come to your interterritorial situation, it is done by the publication—has been done by the publication of column rates to meet the needs of the traffic which is actually moving.

Q. Your Exhibit 164, page 1, why did you leave New England out of the picture?

[fol. 3662] A. Pardon me, have you got any more questions on 168?

Q. What?

A. Have you got any more questions on the classification?

Q. No.

A. Page 164—Exhibit 164; all right, sir.

Q. Why did you leave New England out of that picture?

A. I was undertaking to make a comparison of the rates in the Central-Eastern and Great Lakes regions with those in the South. I am representing, or have been employed by the State of New York and not by New England.

Q. I know, but you are making a comparison of the South with Official Territory, or at least you ought to be. And I don't see how you can leave a part of Official Territory off and could get a true comparison.

A. Well, I do it and I have done it.

Q. What?

A. I say I do it and I have done it. I made a comparison for the Official Territory, excluding New England.

[fol. 3663] Q. You have done that all the way through, have you not?

A. All the way through; that is correct.

Q. You do not mean to say, do you, that it would not change the picture if you had put New England in?

A. Oh, I don't think it would change it so very much when you come to the totals and averages. Have you any particular scale in that Exhibit 164 in mind?

Q. I asked you about one right here, the first one.

A. I thought you asked me about all of them.

Q. I did.

A. The first one is pulpwood?

Q. Pulpwood, yes.

A. It is my recollection that the pulpwood rates in New England are somewhat lower than they are in the Trunk Line and Central Eastern regions, but that at the same time they are higher than the Roanoke Rapids scale which applies in the South. I may say, although it is not directly responsive to your question, that while I was taking off the tonnage originated in the Central Eastern and Great Lakes regions versus the Southern region for 1928 and the other years in the comparison, I also took out for the Eastern district as a whole and the tonnage originated of pulpwood in 1928 for the Eastern district as a whole was 1,999,000 tons. In 1939 it had gone down to 903,000 tons, or less than half.

[fol. 3664] Q. Why didn't you put New England in there?

A. I did not put it in there for the simple reason that I had not been using New England. You brought up New England and I thought I would tell you what the tonnage was, since you brought it out here.

Q. But you left it out of the picture you presented here?

A. I left it out of all the picture.

Q. Yes.

A. I did not use New England in any of my comparisons.

Q. All right. Now, let's go ahead with the pulpwood a minute. You gave some figures about the great increase in the movement in the South in the last few years. When did they start from scratch down there?

A. On pulpwood?

Q. Yes, in the South.

A. (No answer.)

Q. The paper industry in the South is a new industry, is it not?

A. Just a minute. Let me think a minute.

Q. All right.

A. As I recall it, they started from scratch down there about 1904 or 1905. I can tell you this, that the first printing paper mill down there was at Canton, North Carolina and started as a pulp mill. That was started back in 1905 or 1906 because it was only a year or two before I went into [fol. 3665] the Atlanta office as chief clerk and when I went in there I had to extend the pulpwood scale of rates for the Canton mill.

Q. Well, the paper industry had not assumed any proportion in the South until the last 12 or 15 years, had it?

A. Yes. I will say that the printing paper industry had assumed quite fair proportions before that, especially at Canton, North Carolina, and at Kingsport, Tennessee, and at other points, certain other points in the South. Frankly, the kraft industry has developed more in the past 15 years. I would say that a great development of the kraft industry has been within that period.

Q. Now, you gave some figures about the increase in the South as compared with the slight decrease in the East. What period did you cover with those per cents?

A. On what?

Q. Pulpwood.

A. On pulpwood?

Q. Yes.

A. I took the figures for 1928.

Q. And compared them with when?

A. Compared them with 1939 and 1941.

Q. Well, now, these figures show, do they not, that notwithstanding the development in the industry of the South there has been very little reduction in the industry in the [fol. 3666] East?

A. I disagree with you.

Q. Well, what percentage, now, would you say there?

A. You are speaking now of the paper, the paperboard, and so forth?

Q. Yes.

A. You are speaking of the products, not of the pulpwood?

Q. Whatever it was you gave those percentage figures for.

A. I gave it from 1928 to 1939, stating that the originated tonnage in the Central Eastern and Great Lakes regions had shrunk to 76 per cent for 1939 as compared with 398 per cent in the South of the 1928 tonnage.

Q. What commodity were you comparing when you gave that 98 per cent figure?

A. You mean, 96 per cent?

Q. Yes, 96 per cent.

A. That was for the year 1941.

Q. Compared with when?

A. As compared with 1928.

Q. So that——

A. In connection with that 96 per cent figure for the Central Eastern and Great Lakes regions I also showed 576 per cent, a 576 figure for the South.

Q. That is all right. But the East, notwithstanding the development of the South, was practically holding its own. [fol. 3667] A. That is a matter of argument.

Q. Now, on page 7 of that same exhibit it seems to me that your caption is misleading. You say, "Comparison of mileage scales on furnace material, carload, applicable in Southern territory, with mileage scales and specific rates on the same commodities applicable in Official Territory."

Mr. McCollester: What page is that?

The Witness: Page 10, I understood him to say.

Mr. Norman: Page 7.

The Witness: Oh, page 7.

Mr. McCollester: What page again?

Mr. Smelker: Page 7.

By Mr. Norman:

Q. Now, with respect to the scales you show there, you show right over the top of them that they are the Alabama Furnace Materials scales, but it is a fact that those scales are applicable only in Alabama, is it not, and that they were prescribed by statute there?

A. I stated they applied only intrastate in Alabama, and furthermore, Mr. Norman, as you know, Alabama is the only state that has any iron production at this time.

Q. Alabama has what?

A. Alabama is the only state in the South that is producing any pig iron.

Q. But if they were shipping outside of the state, those rates would not apply, would they?

[fol. 3668] A. Certainly not. You are not going to ship out, either, to furnaces that do not exist.

Q. Now, with respect to your Exhibit No. 165, I understand it to be your position——

A. Are you through with 164?

Q. Yes. Throw it away.

A. All right.

Q. I understand it to be your position that there cannot be a parity or should not be a parity of class rates, South with East, because of the difference of the consist of the traffic, is that your position?

A. I said that the consist of the traffic, or the composition of the traffic to respective territories to my mind did not justify a common parity.

Q. Now, Mr. Bell, is there not as much difference in the consist of the traffic as between individual railroads within a given territory as there is as between the averages of territories?

A. That might be true in some cases, yes. However, you are faced with a situation there where, of course, you are within the single territory and your rates are very largely controlled, as I have mentioned, by competitive influences between competing lines between the same points in the same territory.

Q. Now, turn to page 3 where you deal with coal and coke.

[fol. 3669] A. Yes.

Q. You use four systems there. It is of record here already through the testimony of Mr. Kerr that there is a wide difference in the consist of traffic between two of those systems you show, namely, the Louisville & Nashville Railroad and the Southern Railway. However, let us see how it appears as a comparison between those four and then what is left. Those four constitute just about half of the mileage of the South, do they not?

A. I do not recall whether they do or not. I would not say so. However, I will take your word for it.

Q. It does, according to your exhibit.

A. I will take your word for it.

Q. You give the mileage for the South, the total mileage, on page 5 of this exhibit, and then you give it by individual companies on page 10 of your Exhibit 166; and adding up those four, they come to almost exactly half of the total mileage. Now, let's see what happens to the other half with reference to their consist of traffic. You show as to your coal and coke that they carry only 2.33 per cent of the total. When you come to your sub part 2, which is a general group of commodities in Bureau of Statistics Statement No. 40100, they have 5.32 per cent of it. When you come to your three individual commodities in groupings, they have only 1.06.

[fol. 3670] A. Please give it to me so I can follow you. You are going too fast. I cannot follow where you are reading.

Q. Just run right down the column "Per cent of total" there on page 3. You will find 2.33 of coal and coke for that other 19,000 miles of road, 5.32 for the second group of commodities and 1.06 for the third.

A. What is the second group of commodities you gave me on page 3 there? I think you referred to the bottom of page 3, and what other pages, please?

Q. I should think you could read your own exhibit.

A. Well, I can, but I cannot read it so fast, or turn to them as fast as you are talking.

Q. You can find there the per cent of total, can you not?

A. Of coal and coke?

Q. Yes.

A. Page 3?

Q. Yes.

A. Surely.

Q. That is 2.33, is it not?

A. No—yes. That is coal and coke, and 2.22 on bituminous coal.

Q. Then you can drop down, can you not, to the next sub part 2, and you find there that that same 19,000 miles has 5.32 per cent of that particular traffic?

A. Yes, tons originated and terminated.

[fol. 3671] Q. Then you can drop down to the next one and you will find that they have only 1.06 per cent.

A. Tons originated and delivered to connections, of coal and coke.

Mr. McCollester: That is all coal and coke.
The Witness: Yes. That is all coal and coke.

By Mr. Norman:

Q. All coal and coke?
A. Yes.

Mr. McCollester: It is not different commodities.
The Witness: No. Page 3 deals altogether with coal and coke, all the figures which you have been reading.

By Mr. Norman:

Q. What does sub part 2 mean? I asked you that question, and you said it was those groups on the front of the exhibit.

A. When you say "the page of the exhibit", you mean the title page of the exhibit?

Q. Yes, the title page.

A. If you will look at that, part 1 covers anthracite coal and coke, part 2 covers general groups of commodities shown in the I. C. C. Freight Commodity Statistics, part 3 covers individual commodities as shown in those commodity groups, and so on and so forth. That is not limited to coal and coke.

Q. What does sub part 2 on page 3 mean?

A. Sub part 2 on page 3 shows a comparison of the tons [fol. 3672] originated and terminated of coal and coke.

Q. Yes.

A. On these four railroads.

Q. Yes.

A. As compared with all other railroads in the South.

Q. I see.

A. To the right of that is a comparison of bituminous coal.

Q. Only?

A. Yes.

Q. Even if you confine it to that, while those other 19,000 miles of road only originated 2.33, they handled 11.77, is that not right?

A. Of coal and coke.

Q. Yes.

A. I think the exhibit shows that.

Q. In getting these consolidated statistics as to the consist of traffic by territories, could you not have also gotten it by railroads?

A. If you will look, Mr. Norman, on page 5 of Exhibit 166, you will find for each individual railroad in the South the total tons of originated of all freight, the total tons originated of anthracite coal, bituminous coal and coke and the percentage, one to the other; and you will find also the total tons handled of all freight, the total tons handled of coal and coke; and you will also find the tons handled [fol. 3673] of all products of mines and the proportion that was handled by each one of these railroads and the totals of all railroads.

Q. But that is the only separation you make as to the consist of traffic as between railroads, is it not?

A. Individually between railroads, yes.

Q. Yes.

A. Because I have not gone into——

Q. You proceeded, though, to make it as to all different kinds of traffic by territories?

A. If you will also look at my exhibit, at part 3 of my exhibit, on pages 9 and 10——

Mr. McCollester: Which exhibit?

The Witness: Exhibit No. 166—there I have undertaken to show, not by commodities, but I have undertaken to show the operating averages for each one of the individual railroads.

Mr. Norman: That is just it.

By Mr. Norman:

Q. When you come to show the financial results or the operating results, you undertake then to separate them and show it by railroads; but when you come to show the consist of traffic, you do not separate them and you put them all together. Why have you done that?

A. Well, the purpose of that was to show, Mr. Norman, and the statement does show that when you take out bi- [fol. 3674] tuminous coal, and that is the only commodity I did take out, for these lines of the Louisville & Nashville Railroad, the Illinois Central Railroad, the Clinchfield and the Northern Alabama—when you take that traffic out, your consist of all other traffic is very much less, and that you have to pay more money to haul it.

Q. I know, but the fundamental basis on which you proceed is——

A. I have stated the fundamental basis on which I proceeded. Do not tell me what I have proceeded on. You may say what you think I should have proceeded on, but do not tell me the fundamental basis on which I did proceed.

Q. You said at the beginning that they could not have a parity of rates on classes because of the difference in the consist of the traffic. Now you have proceeded to undertake to show that by regions, but you have not shown by railroads, and what I am insisting is that if you would show it by railroads you would find as much difference between the consist of individual railroads within the same territories as you find as between territories.

A. Well, that is your assertion.

Chairman Aitchison: Is that a question?

Mr. Norman: I am explaining it to him. I am explaining to him why I said that that is his fundamental basis.

By Mr. Norman:

Q. You do not think it is important to show it by rail-[fol. 3675] roads, do you?

A. No.

Q. You think that you should——

Mr. McCollester: Is that not a matter of argument, Mr. Chairman?

Mr. Norman: Let me ask you this question:

By Mr. Norman:

Q. Suppose you draw a line north and south instead of east and west——

Chairman Aitchison: Excuse me, Mr. Norman.

Mr. Norman: Yes.

Chairman Aitchison: I might say that this witness has been given very free latitude in explaining his theories.

Mr. McCollester: I have no objection to his going on, if the Commission wants to hear the argument now.

Mr. Norman: They have been hearing it from you, every time you have gotten up to examine a witness.

Chairman Aitchison: We have been hearing a lot of argument. We do not want it to be all one sided. Proceed, Mr. Norman.

By Mr. Norman:

Q. Now, Mr. Bell, could you not draw these lines most any place and show this same difference in consist of traffic?

A. You asked me just before that, I believe, if I could not have drawn a line east and west.

Q. North and south.

[fol. 3676] A. Oh.

Q. Suppose you drew one and separated New England from the Western Trunk Line Territory.

A. We are talking about Southern Territory. New England Territory is a territory in and of itself, and a territory, rather, of Official Territory.

By Chairman Aitchison:

Q. If that is the case, why did you not leave Mountain Pacific out of your Western Territory?

A. Because I was comparing our rates with the territory that New York State is located in, in Trunk Line Territory, which is tied together by the Commission's findings in the Eastern Class Rate case, with Official Territory, the same common level having been prescribed, and the Commission did not prescribe the same common level between New England and that territory.

Q. Nor was the same level prescribed between Western Trunk Line and Southwestern on the one hand and Mountain Pacific on the other.

A. No. I did not claim that it was. I have shown the different regions in my comparisons in Exhibit No. 165; in fact, I have shown the comparisons for all regions, including the New England region and including all of the regions embracing the Western district.

By Mr. Norman:

Q. When you come, though, to show the financial returns of the Southern railroads, and of all railroads, in fact, [fol. 3677] you show them by individual railroads, do you not?

A. No more than I showed the separation of the coal tonnage by individual railroads.

Q. All right, but that is the only separation you make as to traffic, is this coal tonnage. As I say, you show by

individual railroads all of the facts about their operations, their operating results.

A. I show for each one of the railroads in Section A, part 3 of the exhibit, pages 8 and 9, the figures for the operating expenses; that is shown for each of the railroads in the Southern region and also for the groups.

Q. Do you not find as much variation in these operating results as you would find in traffic consist?

A. (No answer.)

Q. In other words, Mr. Bell, is it not true——

A. Now, just a minute, Mr. Norman.

Q. All right.

A. Let me answer your question.

Q. All right; go ahead.

A. There is, of course, a variation in the expenses, operating expenses of the different railroads in the Southern region, but if you will make a close study of this exhibit, you will find that individually, the operating expenses of those lines in the eastern part of the South are greater [fol. 3678] than the operating expenses are in the western part of the South, taking it individually, road by road.

Q. That is just the point. Can you segregate and put into any given territory roads based upon any particular operating results, return, operating ratio or what-not?

A. (No answer.)

Q. You cannot divide them as between the South and the East on any such basis as that, can you, because some of those that are in the East would be like some others in the South, and some others in the South would be like others in the North?

A. Yes, Mr. Norman, but my point goes to this: you are contending for the same parity of rates in the South as in the North. I think very largely you are depending upon Dr. Edwards' unit costs to sustain that position. Now, you cannot make rates in any territory based on unit costs, and the effect of your trying to show that there is a parity of costs in the South is that you have to take the low unit costs of the coal-carrying roads in order to accomplish that service, in order to sustain your argument that the cost in the South is as little as it is in the East.

Mr. Norman: That is not at all responsive to the question I have asked you, but it is very good argument. I would like to have you answer my question.

By Mr. Norman:

Q. Can you segregate the railroads as between South and [fol. 3679] East based on any operating condition or operating results?

A. You mean, in the same territory?

Q. Yes.

A. The Commission in the Southern Class Rate case said that the rates should be made on a uniform basis notwithstanding—that is, between points in the South—but they did not do it based on costs. They did it based on the competitive situation.

Q. I did not ask you that. I asked you, could you segregate them on that basis.

A. Yes. It could be done, except for the competitive phase.

Q. Now, if you cannot put them all in one class, based on rate of return—of course, you cannot, because the rate of return of some railroads in the South is higher than other railroads in the North, and vice versa—if you cannot do it on that basis, how can you segregate them on a consist of product basis when that varies just as the operating results vary?

A. I have not undertaken to separate them on a consist of traffic basis, and I have not contended that in the South there should be a difference in the common level.

Q. I know you have not. You have undertaken to group them on a consist of traffic basis, though.

A. Sure, in order to show that the theory is all wrong [fol. 3680] that your unit costs in the South as a whole should be controlling of your rate level as compared with the unit costs in the North.

Q. I understood you to say just a little while ago that you could not possibly do any such thing as that.

A. I said, in the same territory perhaps, but when you come to interterritorially, you are on an entirely different basis for the reasons which I have gone into at length.

Q. Then why are you willing to agree that you can base it on unit costs?

Mr. McCollester: Base what?

Mr. Norman: The rate.

The Witness: In the South?

Chairman Aitchison: That seems to me to entirely ignore a fact which we must take into consideration, and that

is the other blade of the shears: how much it is worth, how much the service is worth. You cannot consider alone how much it costs.

Mr. Norman: That is undoubtedly true, but I do not know how you are going to arrive at a conclusion that it is worth more to the men in the South than it is to the men in the North.

Chairman Aitchison: Your question was whether or not he can base it solely upon cost.

Mr. Norman: I did not say "solely", I do not think.

[fol. 3681] By Mr. Norman:

Q. At any rate, if there be this wide difference as between individual railroads in consist of traffic within the South as Mr. Kerr has testified there is between the two largest systems in the South, how can you base rates on an average consist of traffic?

A. Just as easily as you can on your theory that the average unit costs in the South should give you a parity of rates with those in the North. It is exactly the same theory. That is the theory you are talking about.

Q. When you arrive at these averages for consist of traffic, when there is the wide difference as to the individual roads, it is much like shooting at a mark and shooting 6 inches over it one time, and six inches under it the other time, and then saying that on the average you hit the mark; is that not about true?

A. No. That is your statement.

Mr. Norman: I believe that is all.

Chairman Aitchison: Is there any further cross-examination of Mr. Bell?

Mr. Walker: I have just one question.

Chairman Aitchison: Mr. Walker.

By Mr. Walker:

Q. At several places during your direct testimony Mr. Bell, you referred to a Pocahontas Rate District. Is there any such rate district?

Chairman Aitchison: No. He said there was not.

[fol. 3682] The Witness: I said most emphatically there was not.

Mr. McCollester: That was the whole purpose of his testimony.

Mr. Walker: I know, but I am leading up to another question, if you will bear with me for a moment.

By Mr. Walker:

Q. Is it your understanding that there has been any proposal in this proceeding to establish a Pocahontas Rate District carrying rates different from rates in Official Territory?

A. No. I do not understand there has been, Mr. Walker.

Mr. Walker: That is all.

Chairman Aitchison: Is there any further cross-examination of Mr. Bell? (No response.) Is there any redirect?

Mr. McCollester: No redirect.

Chairman Aitchison: You may be excused, Mr. Bell.

(Witness excused.)

Chairman Aitchison: Have you anything further, Mr. McCollester?

Mr. McCollester: Mr. Chairman, that concludes our presentation. I had thought when I was contemplating this hearing I might try to do a little summarizing, but I will spare you that and leave it for brief.

Chairman Aitchison: Mr. Leonard F. Mongeon, Secretary of the Retailers' Transportation Committee of New York, has a short statement which he wishes to present. Raise [fol. 3683] your right hand and be sworn, Mr. Mongeon.

LEONARD F. MONGEON was sworn and testified as follows:

Direct examination.

By Chairman Aitchison:

Q. Will you give your full name and address, please?

A. My name is Leonard F. Mongeon, and I reside at 17 Marvin Avenue, Rockville Center, Long Island, New York.

Mr. Norman: Mr. Chairman, if the witness is going to read his testimony and is passing it up to the bench, I think counsel should have copies.

Chairman Aitchison: Yes.

Mr. Norman: Do you have copies?

The Witness: Yes.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record. Is there any objection to this statement being copied in? (No response.) It may be copied into the record.

(The statement is as follows:)

I am Secretary of the Retailers' Transportation Committee, and also Traffic Manager of the National Retail Dry Goods Association. I have been in the employ of the National Retail Dry Goods Association for fifteen years, handling traffic matters. Before that I was employed by the [fol. 3684] Eleto Company for a period of four years, handling the traffic work for the Associated Dry Goods Corporation, a chain of department stores. I have been designated by the Retailers' Transportation Committee to appear at this hearing and testify on behalf of that Committee.

The Retailers' Transportation Committee is a recently formed inter-association committee representing eighteen national retail trade associations in transportation matters. The names of these associations follow: American Retail Federation; American National Retail Jewelers Association; Cooperative Food Distributors of America; Institute of Distribution; Limited Price Variety Stores Association; Mail Order Association of America; National Association of Chain Drug Stores; National Association of Food Chains; National Association of Retail Clothiers and Furnishers; National Association of Retail Grocers; National Automobile Dealers Association; National Association of Shoe Chains; National Retail Dry Goods Association; National Farm Equipment Association; National Retail Furniture Association; National Retail Hardware Association; National Shoe Retailers Association; National Voluntary Groups Institute.

Over 400,000 retail stores of every description, such as, department stores, chain stores, mail order houses, shoe stores, hardware stores, drug stores, food stores, etc., are included in the membership of the eighteen associations listed above, who are represented in traffic matters by the [fol. 3685] Retailers' Transportation Committee. These stores are located in every state of the Union, also, the Dis-

trict of Columbia. This Committee is truly representative of retailing.

A large percentage of the shipments received and made by retailers are less carload shipments, many of which move by railroad. The great majority of these shipments move on class rates. Most of these shipments consist of merchandise purchased from manufacturers for resale. A large percentage of all shipments received by retailers are purchased f.o.b. shipping point and the transportation charges are paid by the stores.

The Retailers' Transportation Committee is opposed to any readjustment of freight rates which would result in increasing freight rates, either interterritorial or intraterritorial, beyond their present level.

Our opposition is based entirely on the fact that under the General Maximum Price Regulation which grew out of the Emergency Price Control Act of 1942, retailers are prohibited from exceeding the highest prices which they charged in March, 1942, with a few rare exceptions. The General Maximum Price Regulation is published in the Federal Register as title 32, chapter 11, part 1500, sections 1500.1 to 1500.25 inclusive.

The General Maximum Price Regulation has had the [fol. 3686] effect of narrowing the margin between what stores buy merchandise for, and what they sell it for. This was brought about because wholesale and retail price levels were both frozen as of the same period, that is to say, March, 1942, despite the fact that retail prices always lag behind wholesale prices during a rising market. Hence, there has resulted a price squeeze on retailers.

To tighten the squeeze, came a 6 per cent increase in freight rates effective March 18, 1942, which was absorbed by retailers. Furthermore, effective December 1st, 1942, there will be 3 per cent tax on shipments, which will also be absorbed by retailers. While the General Maximum Price Regulation makes it possible for the stores to pass this tax onto the customer, in most instances it will be impracticable to do so.

Congress has recognized the problem created by practically all prices being under the price ceiling, except transportation rates; as indicated by a provision in the recent anti-inflation bill that orders common carriers to file with Economic Stabilization Director Byrnes, all proposals to increase rates thirty days in advance of the effective date

of such increase. Director Byrnes designated the Office of Price Administration as his representative to receive notices of such increases.

As stated previously, both wholesale and retail prices are subject to price ceilings. Freight rates are an important [fol. 3687] element of cost going into both the wholesale and retail price. Any further increase in freight rates must be absorbed by the retailer unless we can get permission from O. P. A. to increase retail prices. Any general piercing of the present retail ceilings would be unfortunate and something to be avoided in the interests of our———

We, therefore, hope the Commission will not permit any increase in the present class rates as a result of its decision in this proceeding.

Chairman Aitchison: Is there any cross-examination? (No response.) There appears to be no cross-examination. You are excused.

(Witness excused.)

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: We will adjourn until 7:30 p. m. The hearing will reconvene at that time in the Hall of Mirrors.

(At 5:10 o'clock p. m., adjournment until 7:30 o'clock p. m.)

[fol. 3688] Evening Session

7:30 o'clock p. m.

Chairman Aitchison: Shall we proceed.

Mr. J. R. Bell: Call Dr. Duncan.

C. S. Duncan was sworn and testified as follows:

Direct examination.

By Mr. Bell:

Q. Your name is C. S. Duncan?

A. Yes, sir.

Q. Your place of office and residence is Washington, D. C.?

A. Yes, sir.

Q. You are economist for the Association of American Railroads, are you?

A. Yes, sir.

Q. And you are appearing in this case for the Class 1 railroad respondents, all being members of that association, are you?

A. Yes, sir.

Q. Will you state briefly the backgroundk of your experience, educational and otherwise.

A. I graduated from Wabash College at Crawfordsville, Indiana. I have taken post-graduate work at the University of Chicago, from which institution I received the degree of Doctor of Philosophy. For ten years I was a teacher in Ohio State University here in Columbus, Ohio. In 1915 I began teaching in the University of Chicago when the School [fol. 3689] of Business was organized there. My special subjects had to do with marketing problems. In 1918 I was drawn into war work, first in Washington, D. C., and then as a member of the American Shipping Mission in London, in charge of the Statistical Division, whose duty was the allocation of ocean tonnage to meet the essential needs of the allied nations. Early in 1919 I was transferred to Paris and attached to the office of Commissioner Robinson, of the U. S. Shipping Board, for the period of the Peace Conference. I returned to the United States in June, 1919, to become Chief of the Research Section of the National Industrial Conference Board. I came to the Association of Railway Executives in Washington, D. C., October 1, 1922, as economist, and I remained as such until the reorganization in 1934, when I was made economist of the newly organized Association of American Railroads—my present position.

I am the author of a text book entitled Commercial Research, published by the MacMillan Company, 1919, for the study of business problems; a test entitled Marketing: its Methods and Problems, Appleton's, 1920; and also of a text, A National Transportation Policy, Appleton's, 1936. I have written numerous articles for the magazines. I am a member of the American Economic Association, and the American Statistical Association. As economist of the Association of American Railroads, I have the duty of study- [fol. 3690] ing many phases of transportation, especially in

their economic aspects. This has been my business for the past twenty years.

Q. Now, Dr. Duncan, were you requested to make an examination of certain material which has been introduced in this case, and make a study of the same, and related economic matters?

A. Yes, sir.

Q. Will you please proceed with your testimony on the subjects to which you have given study in this connection.

A. Yes, sir. My statement will deal with certain economic considerations, in connection with which I have examined and analyzed the two exhibits, Nos. 1 and 9, submitted by Dr. W. H. S. Stevens, Assistant Director of the Bureau of Statistics of the Commission; the statement or Exhibit No. 76 presented by Mr. A. D. Spottswood, submitted for the Tennessee Valley Authority, and certain other material.

I should like to take up first of all Dr. Stevens Exhibit No. 1. In a notice to the public, dated January 9, 1940, the Commission stated that it intended to have certain studies prepared by its own staff and offered in evidence, one of which would deal with *with* the "relative growth in industry, wealth, population, etc., of the different parts of the United States." I presume Exhibit No. 1, introduced by Dr. Stevens, was in partial fulfillment of that purpose. [fol. 3691] In the Commission's notice of June 4, 1941, it is said that the information contained in the exhibit may be regarded as background material for the broad study of the freight rate structure. As to this exhibit, I shall show that there is nothing of consequence in it relating to relative growth in industry, wealth or population of the different parts of the United States, and there is nothing in the exhibit that is of present value as background material in a study of the relative growth of industry or of the relative economic prosperity of the population of the various rate areas, or of the freight rate structure.

Chairman Aitchison: Well, now, I wonder, Mr. Bell, if in fairness this particular part of the statement should not be deferred until Mr. Stevens can have an opportunity to hear it.

Mr. Bell: I appreciate the fact, if the Commission please, that Dr. Stevens is not here, but he can read it, of course, in the transcript.

Chairman Aitchison: Yes, and so can we, and in view of that, we do not particularly care to sit here and listen to forty some-odd pages, some single-spaced, read to us.

Mr. Bell: May I call your Honor's attention to the fact that this statement is not confined merely to a discussion of Dr. Stevens' exhibits, but it also discusses the testimony [fol. 3692] of Mr. Spottswood and others. Mr. Spottswood, if I recall correctly, consumed some three hours or more of time on the witness stand, and we are undertaking to answer the entire matter in two hours and a half. I would ask that the witness be permitted to proceed with his testimony.

Chairman Aitchison: We are not trying to keep you from presenting it. I merely suggest that it would be more appropriate, inasmuch as we are going to have a Washington hearing, and the witness lives in Washington, to have him produced at that time.

Mr. Bell: If the Commission please, it was the idea of the respondents in this case that this witness would be the first witness in rebuttal. That was our plan. I told you, as you will recall, at Indianapolis, and also at the beginning of this hearing, that we intended to call Dr. Duncan. I regret, of course, that Dr. Stevens is not here at this time, but I do not know how we could avoid that. We respectfully request, your Honor, that the witness be permitted to continue with his testimony.

Mr. Norman: Of course, if your Honor please, this statement has been distributed for some days, now, and we have all had an opportunity to read it.

Chairman Aitchison: It was distributed here, was it?

Mr. Norman: Yes.

Chairman Aitchison: Since we came here?

[fol. 3693] Mr. Norman: Yes.

Chairman Aitchison: Has a copy been supplied to Dr. Stevens?

Mr. Bell: No copies were available, your Honor, until they were sent here by train mail, since we have been here.

Chairman Aitchison: They came from Washington, did they?

Mr. Bell: Yes.

Mr. Norman: I would just like to suggest this, if the Commission please: according to this witness, apparently, everybody is wrong except himself, and yet he does not offer anything that is of an affirmative nature. I think the proper thing to do would be to let the people, whom he is criticizing

so severely, have an opportunity to hear the criticism, and then answer it. For us to just have to sit here and listen to a long statement of criticism of parties who are not present, seems to me just utterly futile, and of no profit to anybody.

Mr. Hughes: I submit, if the Commission please, that if we may not offer our rebuttal testimony unless the person whose testimony we are rebutting, is actually present, we will be very effectually debarred from introducing anything.

Chairman Aitchison: No. I am merely talking now from the standpoint of fairness, and fair play. We have been [fol. 3694] attempting to work along with you on everything here, but we have our rules about the distribution of exhibits and statements. Although these documents, it has been stated, came from Washington, apparently nobody had the courtesy to even think of sending a copy to Dr. Stevens.

Mr. Bell: The exhibit, your Honor, was not prepared in time to send Dr. Stevens a copy. It was sent to Columbus here by train mail, and I received it since I have been here.

Chairman Aitchison: Exactly, so that a copy could have been left with Dr. Stevens at least 8 hours before it arrived here by train mail.

Mr. Hughes: Your Honor will recall that at the hearing in Indianapolis an exhibit was presented in Dr. Stevens' absence.

Chairman Aitchison: And was admitted.

Mr. Hughes: It was.

Chairman Aitchison: Yes.

Mr. Hughes: Now, I see no reason why the testimony and exhibit of this witness, should not be permitted to go in, in Dr. Stevens' absence.

Chairman Aitchison: And I see no reason why they should not be admitted in the absence of the witness, if you want to make the parallel complete.

Mr. Eshelman: In fairness to Mr. Bell, Mr. Chairman, I want to say, with respect to the matter of the distribution [fol. 3695] of copies of this exhibit, that Mr. Bell did not know until after the exhibit had arrived here, whether or not it would be introduced on behalf of the Class 1 carriers, all of the Class 1 carriers, or only a certain group of them. Personally, I feel rather strongly, myself, about this proposition. These other economists who have appeared here, have had their say without limitation; and it seems to me that, just as Dr. Duncan could read Mr. Spottswood's ex-

hibit, and refer to it here, or read Dr. Stevens' exhibit, and refer to it here, Mr. Spottswood and Dr. Stevens can read in the record what Dr. Duncan has had to say, and reply to it at the Washington hearing. Moreover, I thought it was definitely understood that Dr. Duncan would be permitted to proceed at this time.

Chairman Aitchison: Well, it was, that is true, but at that time none of us knew what he was going to present here.

Mr. Eshelman: His exhibit and his statement have been distributed, your Honor. I am sure that everybody has had copies.

Chairman Aitchison: I am not questioning that.

Mr. Norman: Well, I ask again, your Honor, why we should be compelled to sit here at this hour and listen to the witness read this long statement.

Mr. Hughes: Well, we had to sit and listen to Mr. Spottswood testify, for a matter of three hours.

[fol. 3696] Chairman Aitchison: Oh, as far as the mere matter of reading the statement is concerned, I do not care anything about that. If Dr. Stevens were here, Dr. Duncan could take all of the time he wanted.

Mr. Bell: I call your Honor's attention to the fact that Dr. Duncan was not present when Mr. Spottswood was testifying, and neither was he present when Dr. Stevens was testifying, but he read the record of their testimony, and analyzed their presentation, and I see no reason why Dr. Stevens cannot do likewise.

Mr. Hughes: Are we to assume, Mr. Chairman, that we are to be foreclosed from offering our rebuttal testimony unless the particular witness is actually present, whose testimony we are rebutting?

Chairman Aitchison: Not at all, Mr. Hughes, and there has been nothing said from the Bench to even intimate that. The only thing that I am questioning is as to the fairness, inasmuch as this is a savage attack on Dr. Stevens, of proceeding at this time, in the absence of Dr. Stevens, and without his having been supplied with a copy.

Mr. Bell: As was stated before, your Honor, we had no opportunity to give Dr. Stevens a copy.

Chairman Aitchison: You had ample opportunity to give him a copy in Washington, before the document left Washington. You have stated that it came from Washington.

[fol. 3697] It was in Washington before it came here.

Mr. Bell: I did not even know, your Honor, that Dr. Stevens was not here, or would not be here, at the time I received this by train mail. We are merely asking, Mr. Chairman, that we be accorded the same hearing as has been accorded the complaining witness in this case, so to speak.

Chairman Aitchison: And nobody is going to deny you that. It is merely a question of time and place.

Mr. Bell: Furthermore, your Honor, I submit that as far as Dr. Stevens is concerned, you will find no personal criticism of Dr. Stevens here; there is no attack on Dr. Stevens personally. It is merely a statistical discussion, which he can read in the official transcript just as easily as he could listen to it, if he were actually here, and from a reading of the record, he can just as easily analyze it, and reply to it, if he wishes to do so, at the hearing in Washington, as he could if he had been here.

Chairman Aitchison: If Dr. Stevens were here, he would certainly be entitled to suggest to Mr. Smelker, who is here representing the witnesses for the Commission, and protecting their interests, questions which should be asked on cross-examination; but in his absence, of course, that cannot be done.

Mr. Bell: If you desire, your Honor, we will have Dr. Duncan in Washington for cross-examination, but we re- [fol. 3698] spectfully request that he be permitted to proceed with his statement at this time.

Chairman Aitchison: Dr. Duncan, you can be in Washington for cross-examination, can you?

The Witness: Yes.

Chairman Aitchison: And you will hold yourself liable to appear there, will you?

The Witness: I will.

Chairman Aitchison: Without subpoena?

The Witness: Oh, yes.

Mr. Bell: Certainly without subpoena, sir; of course, without subpoena.

Chairman Aitchison: All right.

Mr. Bell: I have told you that we would have him there.

Mr. Norman: All right.

Chairman Aitchison: Go ahead, then.

By Mr. Bell:

Q. Please proceed with your statement, Doctor.

A. The exhibit itself is composed of five parts, dealing respectively with mineral resources, energy resources, agricultural resources, forest resources and human resources. It contains 99 tables, listing the data derived from various sources, principally from studies made by the National Resources Planning Board and from the Census of the United States. Some of the data has been drawn from pub- [fol. 3699] lished statements and texts by authorities in geology, commercial geography and chemistry.

While I have not had every figure checked, I have had enough of them checked to be assured that the material has been assembled with care. I believe it is true that the data contained in this exhibit, although readily available from published documents, have never previously been brought together in this particular form.

By Commissioner Splawn:

Q. I am not just clear Dr. Duncan. Has this been your own statement, or the statement of Dr. Stevens, up to this particular point?

A. The statement up to date, Mr. Commissioner, has been my own statement.

Q. Your own statement.

A. Yes.

Commissioner Splawn: Very well.

The Witness: My examination of the 99 tables in the exhibit and of the accompanying explanation of each leads me to the conclusion that——

(a) The exhibit does not purport to show, nor does it contain data on, the relative growth either in industry or wealth or population, or the relative growth or other economic development in any rate territory or in the rate territories as a whole. It is merely a tabulation of available data on natural resources, and largely reserves, and human resources represented in population figures as of the year [fol. 3700] 1939 or *or* the nearest available year.

(b) Standing alone, the exhibit can have no direct relation to any discussion, either of relative or actual transportation rates as a whole, or of the class rate structure, either

in rate territories or for the country as a whole, for the reason that the character of the data is such that there can be no direct relation between the two. For example, reserves of oil, of coal, of iron ore, or gold, or silver, or copper, or other minerals, or the number of skilled and unskilled workers, or soil fertility or the production of mil- per cow, of cotton or corn per acre, have no direct relation to railroad or other transportation.—

(c) The exhibit contains no data or other information dealing with such matters as where and what is the demand for or use of the raw materials listed or of the food and feedstuffs and manufactured articles that appear in the tables. There is no data on such matters as where and why there are certain kinds of resources required but not developed for use, if any such exists. There is no information in the exhibit on the subject of where and why there are resources developed and demanded, but not moved, if any such exist.

(d) There is no information contained in the exhibit to show the relation of the data on resources or reserves or production to the requirements for transportation facilities and services, either for any commodity or any group of [fol. 3701] commodities or in any rate territory, and no information as to transportation resources by various agencies in the freight rate territories.

Mr. Bee: Now, if the Commission please, I want to interpose an objection on the record to the next statement in the mimeographed testimony of the witness, before he reads it, as being purely a conclusion on the part of the witness, and a conclusion for the Commission to draw. This witness has no right to put it into the record.

Mr. Bell: What statement is that?

Mr. Bee: The statement immediately following the single-spaced statement.

Mr. Bell: Oh, there have been many such expressions, if the Commission please, by the various complaining witnesses appearing here as economists and what not, which have been permitted. You have already indicated the leeway that is to be given to the testimony of economists.

Chairman Aitchison: Oh, it may go in.

By Mr. Bell:

Q. Proceed.

A. The failure to include in the exhibit data of the character to which I have referred appears to me to render the exhibit as it stands in the record of no material value in the discussion of the freight rate structure.

I have prepared a table for the purpose of giving a general view of the data as to some of the principal items [fol. 3702] contained in the 99 tables of Exhibit No. 1, placed in the record by Dr. Stevens. This is shown on page 2 of my exhibit.

Mr. Bell: If the Commission please, may we have Dr. Duncan's exhibit marked at this time with the next number in record order.

Chairman Aitchison: 177.

(Exhibit No. 177, Witness Duncan, marked for identification.)

By Mr. Bell:

Q. Proceed, Doctor.

A. The sub heading indicates that the data only on the basis of the rate territories described by the order of the Commission are used. No adjustment is made for the so-called B groupings in which states lying in more than one of the rate territories are shifted from one territory to another.

The so-called resources or reserves, very broadly defined, appear in the first column of page 2 of my exhibit. The sources of the data in Dr. Stevens' exhibit are indicated in each instance in the second column. The data are set up by the five rate territories and for the country as a whole. The units of measure are the same as appear in the tables in Dr. Stevens' Exhibit No. 1 and are indicated in the description of the items. They are either tons, or cubic feet, or bales, or pounds, or value or individuals, as in each case is appropriate.

[fol. 3703] The upper half of my exhibit presents the data in number of units by each rate territory and for the country as a whole. In the lower half of this exhibit these units are reduced to a percentage on a territorial basis. There are added at the bottom of the exhibit two items

which deal with the farm prices of cattle and calves and of corn on a rate territory basis.

By Commissioner Splawn:

Q. Again may I ask you, Dr. Duncan, so that I may be sure I correctly understand your testimony: is this your own summary of the data, now, or the summary of Dr. Stevens?

A. This is my own summary, yes, Mr. Commissioner. The percentage, I have had to calculate.

By Chairman Aitchison:

Q. Well, does it differ materially from his?

A. Pardon me?

Q. I say, does this differ materially from Dr. Stevens' statement?

A. Why, the figures in the upper half of this page, Mr. Chairman, are taken wholly from Dr. Stevens' table.

Q. Well, then, they do not differ, do they?

A. No, sir, they do not. As far as the percentages are concerned, however, I have had to calculate them.

By Mr. Bell:

Q. Proceed.

A. I believe that this table presents in condensed form, [fol. 3704] with fair accuracy, the so-called "basic economic conditions" prevailing in the different rate territories with regard to what are called "natural resources."

Certain data contained in the tables of Dr. Stevens' Exhibit No. 1 are not represented in this condensed table. There are certain minor minerals and certain other relatively minor items which have been omitted. I call attention to one broad omission—the data on the so-called "secondary reserves." The information is contained in Chapter II, pages 15-52, inclusive in Dr. Stevens' exhibit.

By Chairman Aitchison:

Q. Your statement is a little bit ambiguous. If it is contained there, how is it omitted?

A. I am going to explain.

Q. No; I say, if it is contained there, how is it omitted?

A. I do not understand, your Honor.

Q. You say that there are certain items which have been omitted, and then you say that they are contained in Dr.

Stevens' exhibit. If they are contained there, why do you say that he omitted them?

Mr. Bell: Omitted from his own exhibit, he means.

Chairman Aitchison: Let the witness answer the question.

A. I have omitted from this table here the data on the so-called secondary reserves, which are contained in his exhibit.

[fol. 3705] By Chairman Aitchison:

Q. Then the omission is by you?

A. Yes.

Q. And not by Dr. Stevens.

A. Yes, sir. As I say, I have omitted the data on the secondary reserves, which are contained in his exhibit.

Chairman Aitchison: All right.

By Mr. Bell:

Q. Proceed, Doctor.

A. The secondary reserves, as presented in this exhibit, consist of both the actual and potential "scrap" of various metals in the different rate territories.

While it is clear that certain amounts of materials become no longer useful from year to year in certain lines of activity, the so-called potential resources include all of the materials in buildings in the cities, in the millions of automobiles owned in the various rate territories, in public utility plants, in the wires of telephone and telegraph companies and all the materials of various kinds in the railroad plants.

These potential secondary reserves, consisting largely of materials in these going concerns, are of such a different character from reserves of iron ore, or coal, or forest products as to make it improper to set up a comparative statement. It is not, of course, contemplated that the railroads, for instance, are to be scrapped or the buildings torn down in the cities or electric plants demolished, or [fol. 3706] the telephone and telegraph companies sold for junk. The actual amount becoming no longer usable year by year is of relatively minor importance.

By Commissioner Splawn:

Q. Dr. Duncan, did you get the impression, either from the testimony of Dr. Stevens, or his exhibit, that he had in mind that they all would be scrapped at one time?

A. No, I did not get any such impression, Mr. Commissioner, but he listed it in the same way as other reserves,—all of the potential scrap. My point simply is this, that that can have no meaning in a going concern.

Q. How much rail abandoned railroads and expropriated railroads has been taken over by the government in the past year?

A. Why, I could not answer you, as to the definite number of miles, Mr. Commissioner, but it has been a relatively important amount, from branch lines, and so forth.

Q. The exports of scrap to Japan came from those sources, did it not?

A. Before the war?

Q. Yes.

A. Yes, very largely.

Q. Well, now, if you take a long enough period, most of those items will eventually be scrapped, in the course of time, will they not?

[fol. 3707] A. Oh, that is unquestionably true, yes, Mr. Commissioner, but I am unable to see how that has any bearing upon the relative growth or wealth of these freight rate territories. That is the point that I am now trying to make. The tables which I have presented here, summarizing the principal items in Dr. Stevens' exhibit, will show I think very clearly that there is obviously no balance in natural resources among the rate territories, if by this term is meant an equality, either existing or potential, in each one.

Q. I am not criticizing you, Doctor, or arguing with you. I am merely trying to clarify the situation.

A. I understand.

Q. Did Dr. Stevens indicate that there is a balance?

A. He gave no indication at all.

Q. Did he intimate that there should be a balance?

A. No, sir, there was no intimation of that kind at all. Some slight interpretation he did give, however, to which I shall make reference later.

Commissioner Splawn: I have nothing further.

Chairman Aitchison: Doctor, I shall have to ask you to proceed.

The Witness: Yes, sir. I think it is equally clear that no practical or possible readjustment in rate territories and certainly none in rates could produce this kind of balance of resources, reserves, production, population, [fol. 3708] industry or soil fertility throughout the country.

I want to add in this connection that if such a balance could be achieved, it would have no meaning. It is elementary that commerce is the exchange of goods and, hence, that the demand for transportation service depends upon commerce. No community or narrowly defined area could economically or possibly exist wholly on its own resources and maintain its standard of living.

Transportation has destroyed that kind of self-sufficiency. Communities and rate territories now exchange their surpluses for their deficiencies. It is true of them all and that is the life of trade. Out of this we have developed the great industrial organization in the country and the standard of economic well-being which is apparently the envy of the world.

Between self-sufficient communities or rate territories there can be no trade and there is no need for freight transportation. Balance of this kind is, therefore, not only impossible but would be wholly undesirable.

The items on page 2 of my exhibit have been arranged in the categories set forth in Dr. Stevens' Exhibit No. 1. It will be noted that there are five of them. The first is mineral resources, illustrated by iron ore reserves, copper resources and other minerals and non-metallic minerals such as stone, sand, gravel, clay and so on. The second [fol. 3709] group is called energy resources and includes coal, petroleum, natural gas and water power. The third is agricultural resources and includes the items from farm gross income from crops to cotton production. The fourth is forest reserves and is illustrated by the single item of saw timber. The fifth is human resources and is represented by the population figures, including total population, the total gainfully employed, those gainfully employed in agriculture and skilled workers and unskilled workers.

It will be noted, further, that in nearly all of these cases, excluding the last, resources and not production are shown.

Here is a clear foundation for the statement that there is no basis in Dr. Stevens' Exhibit 1 for determining relative growth in industry, wealth or population.

It is apparent from the table itself that each rate territory has certain inherent advantages, if by this term is meant a large percentage of the total reserves or resources. I have then set forth this table here, from page 2 of my exhibit.

Mr. Bell: We have no objection, with your Honor's permission, to having the table copied into the record by the Reporter.

Chairman Aitchison: Do you not think we ought to hear it?

[fol. 3710] Mr. Bell: Sir?

Chairman Aitchison: Do you not think we ought to hear it?

By Mr. Bell:

Q. Go ahead, Doctor.

A. Official Territory. Reserves of stone, gravel and nonmetallic minerals—value produced—43.6 per cent. Population—51.55 per cent.

Southern Territory. Iron Reserves, 53.2 per cent. Cotton production, 43.38 per cent.

Western Trunk Line Territory. Crop land in farms, 40.18 per cent. Potential acreage of 20 principal crops, 41.80 per cent.

Southwestern Territory. Petroleum proven reserves, 68.2 per cent. Cotton production, 46.57 per cent. Natural gas, 41.0 per cent.

Mountain Pacific Territory. Metallic copper reserves, 98.2 per cent. Previous metals—gold, silver, etc.—production, 86.8 per cent. Coal reserves, 47.09 per cent. Water power—potential—66.68 per cent. Stand of saw timber, 69.06 per cent.

By Chairman Aitchison:

Q. May I ask where the remaining coal reserves are found.

A. They are shown here in the table, Mr. Chairman; coal reserves, Official Territory, 19.4 per cent; Southern Territory, 7.41 per cent; Western Trunk Line Territory, 23.36 [fol. 3711] per cent; and Southwestern Territory, 2.76 per cent.

Q. And they make up the difference between 47.09 per cent, and 100 per cent, do they?

A. For Mountain Pacific Territory.

Q. Then the answer to my question is "Yes", is it not?

A. Pardon me?

Q. I say, the difference between the 47.09 per cent and 100 per cent is represented by the items which you have just read; is that correct?

A. Yes, sir.

Q. Proceed.

A. To this extent the data do afford a background in that as to rate territories the people therein undertake to develop the resources and out of this development seek their livelihood by exchange of goods with other territories.

By Com. Alldredge:

Q. Well, does that not create the goods?

A. Pardon me?

Q. Does not the application of human labor and skill to resources, create the goods?

A. Oh, yes.

Q. Well, do you not think that possibly Dr. Stevens had that in mind also, when he postulated these resources?

A. Why, that I would not be able to say, Mr. Commissioner. He might have had, but he did not say so.

Q. Well, if the Commission undertakes to fix the pattern of [fol. 3712] rates for future application, do you say that would not be a matter for consideration?

A. Oh, no, Mr. Commissioner, I did not say anything of that sort.

Q. I thought I understood you to say that it has no direct relation to rate making.

A. The figures shown here?

Q. No.

A. No, sir,——

Q. I am talking about the information that is contained in the exhibit submitted by Dr. Stevens.

A. That is right.

Q. Now, you refer here to the application of human skill and labor to these resources.

A. Yes.

Q. Which creates livelihood, by the exchange of goods.

A. Yes, sir.

Q. Which, of course, is true; and I assume that you also have in mind, in your presentation here, the goods which are thus created, as constituting a source of traffic for the transportation agencies.

A. Yes.

Q. Is that right?

A. Yes, sir.

Q. So that, from your point of view, an exhibition of the [fol. 3713] resources of the country, natural and human, does have some relation to the fixing of a rate pattern for the future; is that not true?

A. Well, I am unable to see, Mr. Commissioner, that that has any intelligent relation until you know what the demand is, and where it is, in a case of this sort.

Q. Well, you know where it would have to originate, do you not?

A. Well, yes.

Q. That would be a pretty good starting point, would it not?

A. Oh, that would be a starting point, yes, Mr. Commissioner, but it would be only a starting point.

Com. Alldredge: Proceed.

A. Such a showing of inherent advantages in these rate territories, however, is wholly superficial. The mere figures on resources give no indication of the conditions under which these resources occur, the advantages or disadvantages of that location, the cost of development or even of the quality of the resources, and certainly nothing whatsoever as to the use or demand for them either as to how great the use or demand is or where it is located.

The mere figures of resources do not indicate in any way the relative demand for workmen or human resources or whether skilled workers or unskilled are required, or what transportation facilities. There are many other facts to be [fol. 3714] considered before the mere figures of resources can be made economically intelligent.

I draw attention to the data on human resources as shown in my exhibit. The source of these figures is a study by the National Resources Planning Board. They were treated, as indicated in the Board's study, from the point of view of what is called "socioeconomics." It is to be recalled that the study was developed in a period of severe unemployment. The prevailing thought was how men might

be put to work. This purpose in the study naturally has colored the presentation of the data to the extent that the information has been gathered for this particular purpose.

There is, however, nothing in the mere figures of total population or population by rate territories, or the proportion of total population gainfully employed, or the relation of skilled or unskilled workers that can be translated into practical economic meaning without an investigation that goes much further than the mere figures.

I want to call attention to data that, it is claimed, indicate the potential acreage of 20 principal crops in the United States and by freight rate territories. The condensed table in my exhibit gives only the potential acreage of these crops and the acreage of the principal crops harvested in 1939 as shown in Dr. Stevens' exhibit. The underlying data in Dr. Stevens' exhibit illustrate the point I have in mind. Poten- [fol. 3715] tial production of these 20 principal crops is calculated for each freight rate territory,—and I quote from his exhibit—"by applying the maximum yield per acre in the past to the maximum acreage in the past for each state comprising the territory." (Part 4, page 14.) It is stated in Dr. Stevens' exhibit that this method of estimating potential production—and I quote again—"assumes that the same amount of acreage used in the production of a particular crop in the past can be called into production in the future if sufficient demand for that crop should arise."

This somewhat surprising statement deserves brief examination. It will be noted that the past history of such state is examined in order to determine some year in which a maximum acreage of land in that state is devoted to a given crop. This history of the state is again searched to ascertain the maximum yield per acre in the past of that particular crop. The maximum acreage is multiplied by the maximum yield per acre to secure the figure for potential production, although the maximum acreage may occur in one year, the maximum yield in another and the two dates may be different in different states, as the tables show in Dr. Stevens' exhibit, part 4, pages 41-74, Tables 53-74. The historical period covered for maximum acreage and maximum production per acre ranged from 1869 to 1913.

Rather astonishing results are obtained from such cal- [fol. 3716] culations. In respect to cotton, for example, potential production and production of 1939 by freight rate

territories are shown in Table 57 of Dr. Stevens' exhibit, Part 4, page 50.

The maximum acreage is computed as 49,452,000 acres. The actual number of acres harvested in 1939 was 23,785,000, which is called 48.1 per cent of maximum. The maximum yield per acre is given as 311 pounds net weight for the United States as a whole and the yield per acre in 1939 was 238 pounds, or 76.53 per cent of maximum. From these figures the potential production is calculated as 32,136,000 bales. The actual production in 1939 was 11,797,000 or 36.71 per cent of the potential.

The figures of more than 32 million bales of cotton as potential production in this country is wholly without meaning. It is obvious that acreage devoted to cotton in some states in past years has been devoted in later years to other crops—as an example, perhaps tobacco, or peanuts, or corn.

By Chairman Aitchison:

Q. Would you not say that some of it, even under existing circumstances, has been allowed to lie fallow?

A. Possibly.

Q. Well, is it not more than "possibly"?

A. Oh, I would say, probably, yes, Mr. Chairman; some of [fol. 3717] it would be allowed to lie fallow, yes, sir. If, however, the potential production of these commodities is likewise to be determined, then as to acreage of this character the farmer would have to be producing two or more crops from the same acre.

I have shown in the last two lines in the condensed table, on page 2 of my exhibit, the farm prices of cattle and calves and the farm price of corn for the year 1939 as an over-all average for the United States, and in each rate territory,—the figures being taken from Dr. Stevens' exhibit. Here, again, the mere presentation of the figures contains no data that would in any way convey an intelligent or satisfactory explanation of what these figures might mean.

There is no information given as to the quality of livestock or of the corn. There is no information as to the volume of demand or the character of use. There is no evidence to show whether the price was affected by corn or livestock produced in other territories or whether the prevailing price was determined by production within the territory. There are many other factors which would need

careful investigation for an intelligent explanation of the variations.

By Commissioner Splawn:

Q. Right there, Dr. Duncan, are you criticizing Dr. Stevens' exhibit because it does not contain all of the data required to dispose of the issues in this proceeding?

[fol. 3718] A. No, Mr. Commissioner, I am not. I am criticizing it because it does not meet the purpose for which, as I understand it, the exhibit was to be presented, which was the relative growth of wealth and prosperity in the various rate territories.

By Mr. Bell:

Q. Proceed.

A. What I have said heretofore and what I have demonstrated from the condensed table afford factual support of the statement previously made that Exhibit No. 1, introduced by Dr. Stevens in this case, does not show in any way the relative growth of production, wealth or population in the various rate territories. There is no factual basis so that standing alone it can "be regarded as background material for the broad study of the freight rate structures" as stated in the Commission's Public Notice of June 4, 1941, page 2.

By Chairman Aitchison:

Q. I do not recall what the basis of your criticism was, of his use of the Census figures, as to population.

A. I made no criticism of that.

Q. How?

A. I made no criticism of that.

Q. Why, you just have.

A. No; I accepted the figures.

Q. You say, "There is no factual basis so that, standing [fol. 3719] alone, it can 'be regarded as background material for the broad study of the freight rate structures'" etc. Just above, you say that Dr. Stevens' exhibit "does not show in any way the relative growth of production wealth or population in the various rate territories." Now, is there anything wrong with the showing of page 2, with respect to total population as between the various territories, and the total for the United States?

A. No, Mr. Chairman. As I stated before, I have had a number of these figures checked.

Q. As to population?

A. Yes, sir, and I think that they have been very accurately shown.

Q. Well, then, why do you say that there is nothing to show the relative growth of population in the various rate territories?

A. Well, for one thing, Mr. Chairman, his exhibit gave no relative growth at all.

Q. Is that your point?

A. Yes.

Q. Because he only gave one year?

A. Yes, sir.

Q. Well, now, supposing that I were to tell you that this Commission will take official notice of the population figures shown in the United States Census. Would that qual- [fol. 3720] ify your criticism at all?

A. Why, I would have no objection to that at all, certainly.

Chairman Aitchison: I think we are required to do so. If it is necessary to the case to show what the growth of population has been, the United States Census is the thing that every tribunal, that has to pass on the facts, is required to take notice of.

Mr. Bell Is your Honor through?

Chairman Aitchison: Yes.

By Mr. Bell:

Q. Proceed.

A. I have, furthermore, carefully examined Dr. Stevens' Exhibit No. 1 to see what evidence of interpretation or explanation the author has given of the data presented.

In Part II, page 2, the author says with respect to sand and gravel that they are produced in practically every state and limestone occurs in 42 states, and adds as follows: "In these cases it is quite possible that the total reserves of every freight rate territory are so huge in terms of any probable utilization that the proportion in any rate territory is much less likely to exercise a significant influence in the economic development of the territory than is the case with those minerals required in large quantities by

the economy and which are both most scarce in terms of total consumption and less profusely distributed."

While this interpretation is by no means simple and clear, [fol. 3721] it seems to indicate that lack of reserves of a special basic commodity is a detriment to a given rate territory. However, since there is lack of certain reserves in each territory and, on the other hand, inherent advantages in each territory, it is evident that exchange is possible, commerce arises, there is demand for transportation and the surpluses are exchanged for deficiencies. Adequate resources in all freight rate territories furnish no basis for interchange of goods.

In Chapter III, on page 1 of Dr. Stevens' exhibit I have noted that the title of the first section is "Relative Significance of Energy Resources." I can find nothing in the discussion as to what is meant by "relative significance." The following sentence, however, occurs,—and I quote—: "The declining production of coal during the past two or three decades and the enormous increases in petroleum production, as well as our much publicized public water power projects such as the Tennessee Valley, Boulder Dam and Grand Coulee, have led in some instances to somewhat erroneous impressions as to the relative significance and importance of these energy sources for the economy as a whole."

I understand this statement to mean from the discussion that follows in the text that, in the mind of the author, coal still remains the chief source of energy.

By Chairman Aitchison:

Q. Do you take exception to that?

[fol. 3722] A. No, I do not, Mr. Chairman. That is not the point that I am making. The implication, therefore, is that where coal exists there is great inherent advantages. In the tables, however, the potential resources from water power are presented in no different way than the potential resources in coal. Where two kinds of resources, whether actual or potential, come in competition, then, of course, one may lose or one may win but the relative efficiency or the relative ability to meet and satisfy the demand as to two such kinds of resources is of the utmost importance. The table gives no basis for a determination of such matters.

By Chairman Aitchison:

Q. Well, does it occur to you that possession in a territory of both of those resources is of positive value in the richness of the territory, and its ability to attract industry, manufacture and trade?

A. Yes, Mr. Chairman. Those are what I call inherent advantages. I have called attention to the fact that the last two lines on page 2 of my exhibit show farm prices of cattle and calves and of corn by freight rate territories. In this connection, I want to refer to a statement that appears in Chapter IV, page 48 of Dr. Stevens' exhibit, where comparative prices of cattle on the farm are discussed. It is there pointed out that Official Territory has the highest farm prices, $7.65 per 100 pounds, for 1939; that Western Trunk Line ranks second, $7.62, while the Southern Territory has the lowest price. The Mountain Pacific Territory [fol. 3723] shows the highest price on hogs and the Southwestern Territory the lowest price. In reference to these facts the author of the exhibit then says,—and I quote—: "Very little information can be gained from this comparison of prices, however, since there are undoubtedly great differences in the kind and quality of animals produced."

This is, in substance, what I have been saying about the tables individually and as a whole. The real economic story lies behind the mere facts and figures presented by the table.

I have been unable to find from the comments on other tables in Dr. Stevens' exhibit any statement of interpretation or explanation that has been helpful. I have noted, however, in Part IV, page 1, that the author quotes from a report by the National Resources Planning Board, issued in 1934, in part as follows: "Finally, human resources and human values are more significant than the land, water and minerals on which men are dependent."

It seems that this statement, which apparently is endorsed by the author of the exhibit, has largely discounted the relative importance of the other data.

Finally, in Part IV, page 13, the exhibit points out that the servant class in the population is distributed among the freight rate territories in close proportion to the total gainfully employed. It appears from the table that in the Southern and Official freight rate territories there is a [fol. 3724] slightly higher proportion of the servant class

to total population. Comment in the exhibit on these facts contains the following: "The differences in the distribution of servants and total gainfully employed appear to be too narrow to be of any great significance." Part VI, page 13. In my judgment, if there be any significance in differences of this kind, it is social and not economic in character.

Comments, explanations and interpretations by Dr. Stevens in his exhibit and in the record do not lead me to alter my comments in any respect regarding the data in the exhibit. The relative growth in industry, wealth and population is nowhere shown nor do the data in any way indicate the opportunity for interchange of commodities between rate territories. In certain important respects, the data in the exhibit on potential production need statistical correction.

By Chairman Aitchison:

Q. Have you indicated where these places are, where correction is necessary?

A. I have just discussed that, Mr. Chairman, in connection with potential production.

By Commissioner Splawn:

Q. Well, other witnesses from time to time have discussed growth and development in their particular communities. Does not Dr. Stevens merely lay out this exhibit as background, wherein you start with any historical discussion of growth?

[fol. 3725] A. I cannot tell you, of course, Mr. Commissioner, why Dr. Stevens presented the data in this form.

Q. Well, is that not what it is?

A. No.

Q. It is not?

A. No, sir, I would not say so. This is merely for one year, 1939, the nearest date for which material was available. That is not the background for a study of relative growth of industry, wealth or population.

Q. Well, can you make a study of relative growth without using these data which he has assembled in his exhibit?

A. In the exhibit which I am now about to discuss, No. 9, he has undertaken to base it upon the idea of relative growth.

Q. I do not know whether any of the witnesses have found these data of any more service than you have found them, in preparing exhibits as to relative growth.

A. I would not know about that, of course.

Q. No, but the data are correct, if they should be found to be of use in such studies as we have been discussing, are they not?

A. Yes, sir.

Commissioner Splawn: Continue.

A. I pass now to Dr. Stevens Exhibit No. 9. Dr. Stevens' Exhibit No. 1 was introduced at the first hearing in St. Louis. At the second hearing in Indianapolis Exhibit No. [fol. 3726] 9, said to have been prepared under the direction of Dr. Stevens, was presented.

By Chairman Aitchison:

Q. Why do you emphasize that—"said to have been prepared?"

A. Well, what I mean is, I saw that statement, and I do not doubt it, of course. He was not here, was all. It is stated on the first page of this exhibit that in Exhibit No. 1 the statement of the distribution of natural resources by territories was presented at the first hearing and that this second part of the study deals with the economic development of the rate territories.

Except for two pages of text, which deal with the general source of data and the adjustments made necessary to fit the data into the boundaries of the freight rate territories and some reference to the lack of comprehensive data in the early years, Exhibit No. 9 is made up of tables and charts with copious reference to sources. The figures in the tables refer to the decennial census years from 1840 or 1849, to 1930 or 1939, as the data were available. These tables cover the figures on: (1) Total population; (2) Total gainful workers; (3) Value of all farm products; (4) Value of mineral products; (5) Value of products of manufacturing industries; (6) Value added by manufacture; (7) A summary table of all the preceding data, with the addition of figures showing value added by manufac- [fol. 3727] ture of minerals; and (8), finally railroad mileage. There data are all given by freight rate territories.

In very broad outlines, this information gives the general growth in population, agriculture, mining and manufacturing. The most striking feature of the exhibit, in my judgment, is the evidence of growth for the country as a whole and by freight rate territories in every one of these categories.

The data in Exhibit No. 9 are, in my opinion, still much too general to be of practical value. It is true that the table on total population given by freight rate territories for the period 1840-1940, inclusive, shows the spread of population throughout the country during this century of development.

A comparison of this table, Table 1, page 3, with Table 8, page 24, which shows railroad mileage in the United States by freight rate territories for the same 100-year period, 1840-1940, might well lead one to conclude that as the lines of railroad were extended into the new regions of the Western Trunk Line, Southwestern and Mountain Pacific Territories, people came flocking into these territories and began to develop the areas in the lines of farming, forestry, mining and manufacturing.

By Chairman Aitchison:

Q. Did you check the accuracy of the figures in Exhibit [fol. 3728] No. 9, the same as you did the figures in Exhibit 1?

A. Yes.

Q. What do you say about them?

A. Why, I would say that they have been carefully prepared from available data. I think it is a fair statement. Apparently, every source of data was used.

By Mr. Bell:

Q. Proceed.

A. In order to show the information contained in Exhibit No. 9 in compact form, so that the situation at the earliest date of record may compared with the situation at the latest date of record, I have prepared a table of the total population, gainful workers and value of products by rate territories in order to bring into focus the relative development as shown by the various tables in Exhibit No. 9.

This is Page 4 of my Exhibit No. 171. It will be observed that this table shows both the figures and percentages

related to the total for the country as a whole as given in each of the first seven tables in Exhibit No. 9.

I state briefly what I think this summary shows, clearly. It is apparent from the data on population that through these 100 years of continental development the population in all freight territories has increaed very substantially. The Official and Southern territories, however, although they have gained substantially in absolute number, have fallen in relationship to other rate territories.

[fol. 3729] Thus, Official Territory, which in 1940 represented 60.1 per cent of total population, has fallen relatively to 48.7 per cent, and Southern Territory which was 34.06 per cent in 1840 has dropped to 18.2 per cent. It is obvious that the Southwestern, the Western Trunk Line and the Mountain Pacific territories have very substantially increased in absolute numbers and in proportion to the whole.

The second division is headed "Gainful Workers," which is synonymous with gainfully employed as used in Exhibit No. 1. As regards the number of gainful workers, both the Official and Southern territories, although they have increased absolutely in substantial amount, have fallen relatively to the country as a whole. The other three territories have gained both absolutely and in proportion to the country as a whole.

The third item, "Value of Farm Products" is the value of products at the farms and data were available for only the 90-year period 1849-1939. The development in all territories is obvious from the figures. Proportionately, Official Territory has greatly declined, as has the Southern territory, while the other three territories have greatly increased proportionately.

The fourth item is "Value of Products for Mineral Industries." A footnote to the table covering these data indicates that the cost of material entering into the mining [fol. 3730] industry is not included. Here, again, the development in all territories is obvious and the proportionate increase in the Southern, Southwestern, Western Trunk Line and Mountain Pacific territories is shown in the table. Official territory has declined proportionately to the other territories.

The item, "Value of Products of Manufacturing Industries," covers a 90-year period and again shows substan-

tial increases in all territories but a proportionate decrease in the Official Territory alone. The Southern territory has increased somewhat proportionately and the other three territories in substantial degree.

The final item is the "Value Added by Manufacture," covering the manufacturing industries for a 90-year period. Here, again, all rate territories have substantially increased. The Official Territory has fallen proportionately, the Southern has increased slightly in its proportion of the total, although, as I have indicated, it had declined proportionately in population and the other three territories have increased to a greater degree.

I repeat, that these figures show a growth and development in all rate territories over the past century in the United States. There is no indication in the data of any barrier or other obstruction that has been in the way of the progressive growth and development in agriculture, [fol. 3731] in the extractive industries or in manufacturing in any of these rate territories.

It is my judgment that a better criterion can be set up for measuring the relative development in industry as among the freight rate territories. The unit of measure for comparative purposes which I suggest is the number of wage earners in manufacturing establishments. I am in agreement with the discussion and the conclusion that appears in the pamphlet entitled "Location of Manufactures 1899-1929—A Study of the Tendency Toward Concentration and Toward Dispersion of Manufactures in the United States," published by the Bureau of Census in the U. S. Department of Commerce in 1933, and drafted by Mr. Tracy E. Thompson, Industrial Analyst, Bureau of the Census.

Chairman Aitchison: It is understood of course by that reference that the document becomes a part of the record, and anybody can refer to any portion of it.

The Witness: Yes.

Chairman Aitchison: Is that right, Mr. Bell?

Mr. Bell: No objection.

Chairman Aitchison: Well, that is the rule, is it not? Otherwise, you ought to produce the document.

Mr. Bell: I did not hear your Honor.

Chairman Aitchison: I say, that is the rule. Otherwise, you ought to produce the document.

[fol. 3732] Mr. Bell: I say, we have no objection.

Chairman Aitchison: All right.

A. Mr. Thompson discusses the several criteria for measuring the distribution of industry—pages 3 and 4 of this document. As to the value of products, Mr. Thompson says that, although sometimes used for this purpose, the sure is not strictly comparable from year to year for the reason that it depends upon commodity price movements and is inflated because of the use of the products in some industries as materials for further manufacture by other industries.

By Chairman Aitchison:

Q. That is the comment of Mr. Thompson with respect to the value of products as a criterion for measuring the distribution of industry; is that correct?

A. Yes, sir. The substance of his reasoning is that he reaches that conclusion, which I think is correct.

By Mr. Bell:

Q. To which you agree?

A. Yes, sir.

Q. And which you adopt, as your own testimony.

A. Yes, sir.

Q. Proceed.

A. As to the value added by manufacture, he says that it is a computed item representing the value added to materials by the manufacturing processes but is, like the former, value of products, dependent upon changes in price levels, both for materials and for the products, though it does [fol. 3733] escape the duplication to be found in the value of products.

Mr. Thompson also points out that the quantity of goods produced is for many purposes a suitable standard for measuring industrial expansion or contraction, although "the conversion of quantities of dissimilar products to a common basis by means of index numbers is too laborious for application to small areas." He points out, however, that increases or decreases of physical quantities of goods manufactured may not closely parallel corresponding increases or decreases of demands for wage earners. It does not take into account, furthermore, the extent to which

machines are employed and the effect of this mechanization upon the number of workmen.

Mr. Thompson also refers to the number of establishments reported as a possible criterion for comparative purposes. He says, however, that it fails to take into account differences in size of these establishments, which is a very important consideration for most purposes. He feels that the general pattern of industry is not readily affected by the gain or loss of small plants, which, though numerous, may have only a slight effect upon total amount of employment or even upon the total quantity and value of output.

Finally, Mr. Thompson reaches the conclusion, with which I agree, that "a more reliable indicator of manufacturing activity is the average number of wage earners employed—the standard which is used in the following [fol. 3734] pages of this report and referred to as wage jobs." Page 4. This figure represents an annual average that is based upon the number of wage earners on the payroll for the week which includes the fifteenth day of each month. It is perhaps the best measure of the number of persons steadily employed, or would be steadily employed if the work were spread out evenly over the year. I am, therefore, suggesting that for comparative purposes the best unit of measurement is the number of wage earners.

Using this unit of measurement, I have constructed a simple table covering four decennial census reports, 1899-1939, which shows the number of wage earners in manufacturing establishments by freight rate territories. This is page 3 of my Exhibit 177.

It has been found necessary by me as others have found it necessary, to make certain adjustments in order to adapt the material to the freight rate territories for the wellknown reason that the boundaries of these rate territories do not always coincide with state boundaries and the census material is given by states and on the basis of regions which have been set up by the Census Bureau.

All of the State of Virginia is included in the Official Territory. All of the State of Wisconsin has been included in the Western Trunk Line Territory, as has the State of Colorado. All of Louisiana is in the Southwestern Territory.

[fol. 3735] The table speaks for itself very clearly and shows the increased number of wage earners in all of the

rate territories as represented by the Census in the ten-year periods.

Q. Those are wage earners in manufacturing business?

A. Yes, sir, wage earners in manufacturing activity, as shown by the table.

Q. Proceed.

[fol. 3736] The main point is, of course, the relative growth of industry as represented by the number of wage earners in manufacturing establishments. I have, therefore, offered a comparison between 1899 and 1939, the last two columns in that table. The table shows the actual increase in the number of wage earners between these two periods and the percentage of growth, both by rate territories. It is clear that while the Official Territory has increased more than other rate territories in absolute number, proportionately it has fallen far behind the Southern Territory, the Southwestern Territory and the Mountain Pacific Territory, and far behind Southern, Southwestern and Western Trunk Line combined.

By Com. Splawn:

Q. That is, you reach these conclusions by comparing the data for 1939 with 1899?

A. Comparing the data for the year 1899 with the data for the year 1938.

Q. And you have got the data for 1939 from Dr. Stevens' exhibit?

A. No, these are from the census report, and the figures are given for the decennial census reports for 1899, 1919, 1929 and 1939, in the table.

By Mr. Bell:

Q. These are figures converted by yourself?

A. That is right.

Mr. Bell: None of them have been taken out of Dr. Stevens' exhibit.

[fol. 3737] By Com. Splawn:

Q. You have passed from the exhibit now and are talking apart——

A. I was suggesting new criteria.

Q. Yes. Now, this comparison you have given us from which you have drawn the conclusion, is that what you thought Dr. Stevens should have done?

A. This is what I think is the proper criterion for determining relative development of manufacturing establishments.

Q. Well, we will be glad to have it and accept it as you have prepared it and glad to have your discussion of it, but I am just asking you if that—I heard your criticizing Dr. Stevens for not doing something and was this the thing you were criticizing him for not doing?

A. No, sir.

Com. Splawn: All right.

By Com. Alldredge:

Q. This table on sheet 3 also shows, doesn't it, that there are more than twice as many wage earners employed in manufacturing establishments in Official Territory than all the other territories combined, isn't that right?

A. Yes, I think that is correct.

Q. Now, standing alone, that would lack some significance too, wouldn't it, because there might be differences represented also in the average wages received by these workers, isn't that right?

[fol. 3738] A. Yes, sir, that is true.

Mr. Bell: We will show that later.

The Witness: That is what this table was presented to show.

Com. Alldredge: Yes, I know.

By Com. Alldredge:

Q. But will you correct that deficiency? I notice sheet 5 might do so for one year.

A. I don't think the tables are wholly comparable, but I do give some figures on the average annual earning in manufacturing industries.

Com. Alldredge: Proceed.

By Mr. McConnaughy:

Q. Can you state, Dr. Duncan, if you, as an economist, might be able to give the reason for the substantial decline,

percentage-wise, from 1919 to 1939 in Official and Trunk Line Territories, and the substantial increase likewise, in the same period, in Southern and Southwestern Territories in the last 20 years.

A. Well, there are two or three reasons. There has been a relocation of industry which I intend to point out. There has also been a mechanization of industry; two important factors.

Q. Do you cover that in your exhibit?

A. The first one I do cover. I have something to say about mechanization, also.

By Chairman Aitchison:

Q. I take it that there was a decline in the Southwestern [fol. 3739] Territory in the two years, between the two years which the Commissioner mentioned?

By Mr. Bell:

Q. Do you understand the question, Doctor?

A. No, I don't understand the question.

By Chairman Aitchison:

Q. I understand Commissioner McConnaughy indicated that there was a substantial decline in Official Territory, 1929 and 1939, and a substantial increase in Southern and Southwestern. I want to ask you to take a look at Southwestern and tell me whether there was a substantial increase in Southwestern, between those two years.

A. What I understood was over 1899. Probably I was wrong.

Chairman Aitchison: What year did you use, Mr. McConnaughy?

Mr. McConnaughy: I used 1919.

The Witness: There has been a decline, as the Chairman pointed out, in Southwestern Territory.

By Mr. McConnaughy:

Q. And in Southern Territory, an increase percentage-wise?

A. That is correct.

By Com. Alldredge:

Q. Hasn't there been a decline also in Western Trunk Line Territory for those years?

A. Yes, sir.

Mr. McConnaughy: Yes, sir, a substantial decline in Western Trunk Line.

Chairman Aitchison: And in the Mountain Pacific also.

[fol. 3740] By Mr. Bell:

Q. Proceed, Doctor. Tempus fugit.

A. The Western Trunk Line Territory shows a smaller proportionate increase than do the other rate territories. The Commission is fully aware of the reasons that have been offered for this failure of the Western Trunk Line Territory to increase more rapidly industrially. Following World War I there came the Transportation Act of 1920 and the large development of traffic through the Panama Canal. The Middle West and the Northwest lost many of their markets on the Pacific Coast because they were unable to secure exceptions under the new Fourth Section or long-and-short-haul clause in the Transportation Act, 1920.

By Chairman Aitchison:

Q. Was that when that was lost to the Pacific Coast markets?

A. Yes.

Chairman Aitchison: I thought it was 1917.

Mr. Bell: The Commission withdrew Fourth Section relief in 1918. The 1920 Act came along and we never succeeded in getting it restored.

Chairman Aitchison: 1918.

The Witness: The controlling decision came in 1922.

Chairman Aitchison: The Transportation Act didn't have that effect. It was the closing of the Panama Canal and the subsequent action of the Commission in withdrawing its Fourth Section relief.

[fol. 3741] The Witness: Yes, sir.

Mr. Bell: Well, in the first instance, Mr. Chairman, which became effective in 1918, because the Panama Canal lines went to the more profitable foreign trade, even before we entered the war.

Chairman Aitchison: And the canal was closed.

Mr. Bell: You withdrew Fourth Section relief. But the point is, we never succeeded in getting it back after the enactment of the 1920 Act.

Chairman Aitchison: Well, this gentleman is an expert and he is criticizing other economists and I wanted to find out how accurate he was in respect to this.

Mr. Bell: This is not a criticism of any economist.

Chairman Aitchison: I am talking about his accuracy with respect to his own facts.

The Witness: There is also the fact that I think is well known, that there has been a dispersion of flour milling from the Twin Cities which formerly were most important in this line. Flour mills have moved to Buffalo, New York, and other mills have gone to the Southwest nearer to the wheat fields of what area.

I am of the opinion that the data which I present in this table on page 3 of my exhibit show a remarkable development industrially, outside of Official Rate Territory. In the face of this evidence of growth, there appears to me [fol. 3742] to be no basis for a contention that these other rate territories are handicapped by the railroad freight rate structure.

By Chairman Aitchison:

Q. Let me understand. What is the basis for your saying that all of these other territories than Official have shown a remarkable industrial growth as shown on sheet 3?

A. Well, the Southern—according to the data I have here, have increased 132.5 per cent.

Q. Over 1899?

A. Over 1899.

Q. That is a period of 50 years.

A. 30 years.

Q. 40 years.

A. 40 years. And the Southwestern, 131.6. Western Trunk Line Territory, as just explained, shows a smaller proportioned increase, the increase 1939 over 1899 being 44.5 per cent; combination of Southern, Southwestern and Western Trunk Line, 94.3 per cent; Mountain Pacific, 197.4 per cent.

By Mr. Bell:

Q. What is Official?

A. As compared to the Official, 54.4.

Q. And what is the total United States?

A. That is shown in the last column, 67.3.

By Chairman Aitchison:

Q. Now, if you are to compare with the 1919 period, which is right in the middle, you would find the peak, wouldn't you?

[fol. 3743] A. Yes.

Q. And every one of these territories, except Southern, had shown a decline.

A. That is right, through the depression, certainly.

Q. Would you consider that a remarkable development industrially during the last 20 years?

A. Yes, I think so.

Q. In other words, then, a decline in the wage earners in manufacturing establishments during the last 20 years indicates a remarkable development industrially?

A. Well, that is not quite right. The depression came in that period, of course. I think that is quite clearly a demonstration of a very remarkable development of industry in these other territories.

By Mr. Bell:

Q. You can compute mathematically the relative percentage of reduction in the Official Territory as compared to the Southwestern, can you not? You needn't do it now.

A. Oh, yes, it is all there.

Q. This shows that the Southern Freight Rate Territory is the only one that hasn't had a reduction at any time, is that correct?

A. Yes, taking it decade by decade.

By Mr. McConnaughy:

Q. You don't see where Official has suffered worse than the Trunk Lines, do you, according to your data?

[fol. 3744] A. No.

Q. What?

A. No, I don't see that.

Chairman Aitchison: What was the statement you made, Mr. Bell, about Southwestern?

Mr. Bell: I said it can be mathematically computed, what the percentage of reduction of Official as compared with Southwestern is, but he needn't take the time to do it now.

Chairman Aitchison: Yes. Then there was another statement, the one I had in mind.

Mr. Bell: Oh, I said that the Southern was the only one that did not show a reduction at all at any time.

Chairman Aitchison: I think Southwestern does, 1929 to 1939.

Mr. Bell: I said Southern, I didn't say Southwestern.

Chairman Aitchison: You said that the Southern was the only one there which did not show a reduction at any time?

Mr. Bell: That is right.

Chairman Aitchison: Oh, yes, that is all right.

Mr. Bell: From 1899 to 1919, 1929, 1939, the whole census.

By Mr. Bell:

Q. You may continue.

A. There is this further point that I desire to add before leaving the statement. As I have pointed out, the data contained in Exhibit No. 9 do not offer as good a unit of meas- [fol. 3745] urement for comparative purposes as does the number of wage earners in manufacturing establishments and, while it is true that Exhibit No. 9 does contain data on the development of rail mileage by territories, there is nothing in either Exhibit No. 1 or Exhibit No. 9 to show the development of highway, waterway, pipeline and airway transportation facilities in these various areas. If the resources of the rate areas are important, then, in my judgment, it is necessary, for a comprehensive picture, to show the total transportation facilities available by rate territories. The conclusion, for example, should not be drawn that because rail mileage may have declined in freight rate territories, the total facilities for transportation service have declined or that there has been any decline in the agricultural, mining or manufacturing industries. It may well be that the total transportation facilities in these rate districts are greater today than ever.

I pass now to Exhibit No. 76, introduced by Mr. A. D. Spottswood in behalf of the Tennessee Valley Authority. The comments which I shall make include both the exhibit

and Mr. Spottswood's statement largely based upon it. Reference is made to the mimeographed form of the statement by Mr. Spottswood. I do not have the——

Q. In that connection, you did not have the transcript of the record but you had the mimeographed statement en- [fol. 3746] titled "Testimony of A. D. Spottswood, Tennessee Valley Authority," did you?

A. Yes, sir, I did.

Q. And that is the statement to which you refer in your testimony?

A. That is the statement to which I refer.

Q. Proceed. You had Mr. Spottswood's Exhibit No. 76, of course?

A. Yes.

By Chairman Aitchison:

Q. Isn't it possible to read faster Doctor?

A. I will try to. Four propositions are given in the statement, mimeograph page 1, that Exhibit 76 was presented to support. There are three of these as to which I shall offer essential dissent on the ground that the data in the exhibit do not support them and that they are themselves in error.

1. The first proposition is that "The marked degree of specialization as among the several regions or rate territories establishes a relationship between Official Territory and the South and West which is substantially that of mother country and colonies." As to this proposition I want to say, first of all, that the phrase "mother country and colonies" is no more than a prejudicial slogan. It is not true governmentally, politically or economically.

That this relationship of mother country and colonies is [fol. 3747] not true governmentally and politically is so obvious as to be readily admitted. It requires no further comment. That the proposition is not true economically can be demonstrated. Page 3 of Exhibit 177, covering four decades of the Census reports, which show the proportionate increase in industry in the South, Southwest, Mountain Pacific rate territories, and the Southern, Southwestern and Western Trunk Line combined, directly and fully disproves this proposition. Industries have grown and multiplied in all these rate territories. There is no evidence from the official record that any handicap has been placed upon their development.

The data given in Exhibit 76, which presumably are intended to support the proposition, do not in fact afford such support. Attention is directed to Table 1 "Occupational Patterns of the United States and the Several Rate Territories, 1940" on page 2 of that exhibit. This table undertakes to set up for the country as a whole and by rate territories all gainful occupations, a phrase which is synonymous with gainful workers or gainfully employed used in the Census Reports. It shows, further, the number engaged in the extractive industries, including agriculture, forestry, fishing and mining. Another column is headed "Manufacturing" and includes persons engaged in "Construction" in addition to the manufacturing group. The fourth and last column sets up data for "Trade and Service." This [fol. 3748] column combines the Census group of "Transportation, Communication and Other Public Utilities"; "Wholesale and Retail Trade"; "Finance, Insurance and Real Estate"; "Business and Repair Services"; "Personal Services"; "Amusement, Recreation and Related Services"; "Professional and Related Services"; and "Government." The source of data is given as the Sixteenth Census of the United States, 1940.

My first comment is that these figures have all the infirmities of those presented in Exhibit No. 1, submitted by Dr. Stevens. They are for a single year and constitute what may be called a snapshot photograph as contrasted with a moving picture of development and growth. The instantaneous photograph as of 1940 may give the impression of a fixed relationship without change, like a "painted ship upon a painted ocean." Economists in these latter days are fond of the word "dynamic" which is used to indicate the economic changes that are constantly taking place. This table does not show the effect of dynamic economic forces at work in this country.

There is another infirmity in connection with the data given in this table. The last column "Trade and Service" has no place here. I have already given a description of the items which go to make up the data in this column. Many of them, like "Wholesale and Retail Trade", "Transportation", "Public Utilities", "Business and Repair Serv- [fol. 3749] ices", "Personal Services", and I would assume "Amusement, Recreation and Related Services", as well as "Professional and Related Services", are incidental to population. No one disputes the obvious fact that the

Official Territory is more highly populated than the other rate territories, but in my opinion a table prepared to support the contention of a fixed relationship among rate territories as to the relative proportion of industries should not include the data contained in this column on "Trade and Service".

I need only mention the fact that Boston, New York, Philadelphia and Baltimore are great ports through which move vast quantities of export and import trade. Many services and many trades have been built up incidental to this entrepot function. I presume that I need only to mention the fact that in this section have been located the great organized security markets, with all of their incidental services and trades, and that in this area, for reasons that can have nothing to do with a transportation rate, are located the great banking and insurance companies of the country. The insurance companies of Hartford, Connecticut, Montpelier, Vermont, of Newark, New Jersey, not to mention those located in New York City, are there for reasons other than a transportation charge.

Professional services, including that of the dentist, the doctor and lawyer, are, of course, incidental to population [fol. 3750] and are not dependent upon a transportation charge. It is far more out of keeping to have included "government" and those employed in government service in Table 1. I had not heard it proposed that the seat of Federal Government was located where it is on account of a rail transportation charge or that any change in a railroad rate would remove it to either one of the other rate territories. I want to remark further in connection with this item later on.

It seems clear to me, therefore, that the table contains much extraneous data which tend to obscure any pertinency that the table might contain. Certainly in the light of the facts which I have presented as to the development and growth of industry in the rate territories of the "South" and "West" this table does not support the proposition which I have heretofore stated.

By Mr. Bell:

Q. Now, to relate back, this table is set out as Table 1 on page 2 of Mr. Spottswood's Exhibit No. 76 you have been talking about?

A. Yes, sir.

Q. Proceed.

A. The second proposition is that "Regional and national objectives of full employment, full production and maximum national income will not be achieved as long as the present regional specializations survive in the present exaggerated degree."

[fol. 3751] Q. Now, that is the second proposition in Mr. Spottswood's exhibit, testimony on this subject?

A. That is true.

Q. Proceed.

A. The assumption which underlies this proposition is apparently of a static and unchanging situation as presented in all the tables in this Exhibit 76. I repeat again that the facts which I have already given demonstrate that the situation is not fixed and unchanging and, therefore, the foundation drops from under the proposition which I have just stated.

The tables which are given to support the two propositions which I have just cited as they appear in Exhibit 76 are Table 2, Freight Tonnage in the Several Rate Territories, Table 3 on Inter-regional Traffic Balances, which is continued in Table 4 and Table 5, Table 6 on Territorial Division of National Income and Chart II which appears on page 9 of Exhibit 76. I shall comment on these tables and on the Chart.

There are two substantial infirmities in the data given in Table 2 on Freight Tonnage in the Several Rate Territories, such substantial infirmatives as to make the table unreliable for the use which it is presumed to serve. The point which the witness tried to make with respect to the series of tables on freight tonnage is that the bulk of freight originating outside of the Official Territory is raw materials [fol. 3752] of low value per ton and the majority of the tonnage moving out of the Official Territory is of manufactured goods of high value per ton, and that the relative value of goods "exported" and "imported" can be measured from these data.

No doubt the Commission is well aware of the infirmities in the data used for the intended purpose. At the time the Commission had under consideration requiring the railroads to report origin and destination tonnage by states. I told Dr. Lorenz of the Commission's Bureau of Statistics, in a conference, that I thought it was not fair to ask the railroads to assume the cost of collecting and submitting data

of this kind, for the reason that they would not be reliable for use when collected. I said that the origin traffic could not be matched against destination traffic and that no similar data were being collected or to be collected for truck and water transportation. The Commission, however, saw fit to require the railroads to furnish the information.

As I anticipated, we find tables drafted on the basis of the data collected. Here are set up the tonnage originated by rate territories and the tonnage terminated by rate territories. From Table 2, page 3, of Exhibit 76 one might get the impression that tons originated should match tons terminated and they are so treated in Tables 3, 4 and 5. They are not matchable. Tons originated include traffic destined to points within the same territory where it originated, as [fol. 3753] well as traffic passing beyond the boundaries of the rate territory. I can illustrate that, I think. In the most recent figures by the Commission for 1941, manufactures and miscellaneous, carload, in New England is treated in the reports as a single unit and not by different states. But the figures there shown, although it is a highly industrial area, tons originated of manufactures and miscellaneous, 12,078,116 tons and tons terminated of manufactures and miscellaneous, 18,834,168. Tons originated include a certain amount of Canadian imports coming to the border of the United States by water and not on a through bill of lading. Tons terminated, in Official Territory for example, include also exports just as tons originated include imports. This is true of the other territories likewise.

It is clear that traffic originating in one territory may be destined for any one of the other territories. Thus, traffic originating in the Southern Territory may be destined to Western Trunk Line or Southwestern and, conversely, tonnage originating in the Southwestern may be destined to the Southern or Western Trunk Line.

Whatever the real facts are in regard to the actual movement of traffic, they are not shown in this table. The lack of comparability in the data given vitiates all attempted comparisons and in my judgment renders not only Table 2 but also the following tables useless and without meaning. [fol. 3754] I now direct attention to Table 6, pages 7-8 of Exhibit 76, which has the title "Territorial Division of National Income, 1940, and Levels of Income 1940-1929." As I understand from the testimony, the purpose in pre-

serving this table is to support the contention that the differences in regional incomes as a whole, per capita and per person employed can be explained by the differences between the manner in which people living in Official Territory and people living in other rate territories earn their living and that these data measure the relative standard of living.

Data of this kind are not suitable for such purpose. Even a cursory examination of the character of the data used in determining the national income reveals the validity of this criticism. One need not go further, in fact, than the statement by the witness himself, in which he says, and I quote: "These figures do not include income which never passes through a market and therefore does not get counted—such things as the value of the farmer's shelter, for instance, and the food he grows for himself."

These two items make up more than 50 per cent of the family budget as set up by the Bureau of Labor Statistics and are, therefore, of very substantial importance.

Q. That is your statement, that is not part of the quote?

A. That is right.

Q. Proceed.

[fol. 3755] A. There is the further qualifying statement by the witness in his description of the table. He says, and I quote, "Since other conditions—" and I add explanation, than dependence on raw materials—"affect the level of income, this is of course an oversimplification."

The only recognition of this oversimplification and of the fact that the two most important items in the family budget which is used for determining standards of living and not included is the phrase, "with due allowance on this account". There's no such allowance actually made. The claim is without qualification that the data show a much higher standard of living in Official Territory than elsewhere, shown in mimeographed statement, page 12. Without passing judgment as to whether the standard of living is higher or lower relatively, I take the position that these data do not demonstrate anything of the kind and are not suitable for determination of relative standards of living. Many factors enter into the relative cost of living, differing in many localities, and also into the determination of real wages and of real income, meaning thereby the purchasing power of the wage and the income.

The data have other infirmities than those arising from the fact that no account is taken of the farmer's shelter

and of the food grown by him, representing important items of income that do not pass through the cash register to be [fol. 3756] counted and from the fact that cash income is not a true measure of real income. These are the ones that I pointed out heretofore.

Com. Alldredge:

Q. Doctor, did you ever make any special study of the values of the farmer's home production that he uses as food from his own farm?

A. I have never made such study. I have seen a number of such deductions——

Q. Do you think that is a very large amount?

A. Yes.

Q. The value of it?

A. Yes.

Q. Per capita would amount up very high?

A. I think it is a very important item.

Q. It is rather small, though, isn't it?

A. No, sir.

By Mr. Bell:

Q. Proceed, Doctor.

A. In this national income are included trade and service incidental to the population and also insurance and finance. These are, of course, matters that can have no bearing on the relation between raw materials production and manufacturing, as I have said, and the relative economic well-being of those employed therein.

I ask consideration, however, of certain other data which may be used as a check on the suitability of the figures used [fol. 3757] in this table for the purpose intended. On page 5 of my Exhibit 177, I have shown a table entitled "Average Annual Earnings of Workers Covered by State Unemployment Compensation Laws by Freight Rate Territories for the Calendar Year 1940." As noted in the table, the source is the data published by the Bureau of Unemployment Security of the Social Security Board. Under the first column on the left, with the title "Industry", are listed the seven categories for which data are available as to average annual earnings of workers. The figures are given for each of these categories and for each of the rate territories, as well as for the United States as a whole.

I call attention first to the item "Manufacturing" which shows that Official Territory has higher average annual earnings of workers than the Southern, Southwestern or Western Trunk Line but lower than the Mountain Pacific. The Official Territory is, of course, the one containing dense population, most of the largest cities in the country, greatest dependence on cash income, and is the area of the highest cost of living. Nevertheless, the Mountain Pacific Territory shows higher average annual earnings than the Official Territory.

The second item is "Mining." In this case, contrary to the assertion as found in Mr. Spottswood's statement that the differences in regional income can largely be explained by differences, and I quote from him, "Between the manner [fol. 3758] in which Official Territory people and Southern and Western people earn their livings" and contrary to the declaration that, and I quote again, "income expectations decline with increased emphasis on raw materials" mining offers higher average annual earnings for workers in the Southwestern, Western Trunk Line and Mountain Pacific Territories than in Official; and mining, it will be noted from the table, offers higher average earnings in Western Trunk Line Territory and Mountain Pacific than manufacturing in the Official Territory. The average earnings are lowest in the Southern Territory.

Before leaving this table, I want to suggest that the lower average annual earnings of workers in the manufacturing industries, especially of the South, but only to a lesser extent of the Southwestern and Western Trunk Line Territories, afford a distinct advantage in lower costs of manufacture as compared with Official Territory. These figures show that the Southern Territory has an advantage of $599, the difference between $1522 and $923 per year average per person employed as compared with Official Territory. Surely no alleged differences in class rates on manufactured commodities could possibly overcome this advantage if, as the witness has declared, the Southern Territory has the materials, energy, labor, power and climatic conditions for industrial development. There is a corresponding ad- [fol. 3759] vantage, to a leser extent, in the Southwestern and Western Trunk Line Territory.

The infirmities which I have pointed out in the data respecting national income have clearly demonstrated that the figures contained in Table 6 of Exhibit 76 are in no way

suitable for the purpose for which they are presented. They are strongly affected by the shelter, fuel and food of the farmer and farm labor which are not included. The figures, therefore, do not measure the opportunity for earnings in these territories, especially as related to real wages and real income.

By Chairman Aitchison:

Q. Aren't there figures which are current among economists with respect to the value of the items of shelter, fuel and food of the farmer and farm labor?

A. There is no agreement upon any value.

Q. I didn't say agreement; I said figures which are current.

A. The reasons being that, as far as I have been able to find, the Agriculture Department that has made some estimate has always used the farm price as the value of those commodities, which most economists that I know have held are not comparable with the retail prices for the same commodities, which must be paid for those commodities. So I don't know of any study——

Q. That is the one case where you do not accept the cost of reproduction new as being the test of value, is that correct? (Laughter.)

[fol. 3760] A. I don't know that I understand it but I——

Chairman Aitchison: Proceed.

The Witness: I think the Commission understands clearly, if you are going to make a comparison in cash income, the items must be of the same character.

By Chairman Aitchison:

Q. Well, there are such figures which are used, are there not, that are possibly subject to such qualification as you indicate?

A. Now and again the Department of Agriculture has published figures of that kind.

Q. We have had them many times in rate cases.

A. No doubt, taken from that source.

Q. Well, have you thought it worth while to try to supply them?

A. No, sir.

Q. Generally speaking, throughout your exhibit here, you have contented yourself, have you not, with pointing to

infirmities without attempting to correct the infirmities and show what a proper statistical statement would be?

A. That is true, generally speaking. I have indicated what I thought a better criterion for the measuring of relative growth of industry.

Q. With respect to wage earners?

A. Yes.

By Mr. Bell:

Q. Proceed, Doctor.

[fol. 3761] A. I have also shown that it is not true that the production of raw materials offers less opportunity for earnings, certainly as regards mining, than does manufacturing. Table 6 of Exhibit 76 therefore, can have no probative value in my judgment.

By Com. Alldredge:

Q. You just limit that to mining? Have you shown that it is true in any other kind of raw material production?

A. I was unable to get any figures on any other industries than the ones that are used. They might possibly be had; I don't know where.

By Mr. Bell:

Q. Proceed, Doctor.

A. While, as I have shown, the table itself is actually devoid of usefulness in measuring real income or real wages or relative standards of living——

Q. That is table 6, is it?

A. Yes, sir. I want to add that, if taken at their face value, it does indicate a tremendous advantage in manufacturing, particularly for the Southern Territory and to a less extent for the Southwestern and Western Trunk Line Territories as compared with the Official. For example, it may be seen from Table 6, page 7-8 of Exhibit 76, that the ratio of income for the State of Alabama was 50 as compared to 137 for New York as related to the national standard. It is to be assumed from the purpose for which the [fol. 3762] table is presented that this is really a measure of the labor cost as between these two territories. If, therefore, nearness to raw materials be added to the labor cost advantage of the State of Alabama, the chart alleging to show marketing territory for matches in Chart IV, page 11

of Exhibit 76 must be greatly modified. The same would hold true on shoes, Chart V, page 12, for Texas has a ratio of 75 as compared with Massachusetts with a ratio of 127, as related to the national standard.

In brief, Table 6 does not set up data to support the contention it is intended to support for the data are unsuitable for the purpose, and further, if taken at their face value, disprove the contention made.

What I have already said utterly invalidates Chart II on page 9 of Exhibit 76 by Mr. Spottswood. I have seen a similar chart elsewhere, but, although based upon the same principle, did not produce exactly the same results. The national income figures are again wholly unsuitable for the use made of them in this chart. The infirmities of the figures I have already indicated in detail.

Q. Right there, Doctor, this chart you are talking about of the triangles and circles and so forth?

A. Yes, sir, Chart II.

Chairman Aitchison: That is sheet 7 in your exhibit, is it?

[fol. 3763] Mr. Bell: — 9 of Mr. Spottswood's Exhibit 76.

Chairman Aitchison: Sheet 7 in your exhibit?

Mr. Bell: He is coming to that.

The Witness: I have constructed one.

Mr. Bell: No, it is not the same thing.

By Chairman Aitchison:

Q. Then the answer is no?

A. The answer is no.

Mr. Bell: No.

Chairman Aitchison: Go on.

Mr. Bell: Go ahead.

Chairman Aitchison: Dr. Duncan, we have been working since 9 o'clock this morning. It will be a favor to the Commission if, on this matter which is very largely merely reference, you will expedite your presentation of it.

Mr. Bell: Mr. Chairman, pardon me, the witness seems to be talking as rapidly as possible, and I have kept record——

Chairman Aitchison: No, he is not. He will talk fast for a while and he will slow up and he will get oratorical on a mere reference to a page on the table.

Mr. Bell: You know it is hard for a man to continuously talk. I think he has done pretty well. I think I would give out.

Chairman Aitchison: Dr. Duncan, I have made a request of you.

Mr. Bell: Go ahead and do the best you can, Doctor. I [fol. 3764] would like to call attention, of course, we welcome questions from the Bench, but I understand Mr. Koebel is keeping accurate time, usually. He can tell you how much time has been consumed, and the Doctor has not been able to read his statement.

By Mr. Bell:

Q. Proceed.

A. This chart, which is Chart 2 on page 9 of Exhibit 76, undertakes to classify the 48 states in an order of arrangement based upon the two factors of the ratio of workers engaged in raw material industries to total number of workers and as related to the average national income of $579. This method is wholly invalid for the purpose for which it is used, namely, to show diagrammatically, and I quote from the statement, the "depressing effect of raw material specialization on the income level."

I want to point out, first of all, that on one side of this picture are the great financial and insurance institutions, the employment in government service, the professional and educational groups, the greatest number of large cities in the country, the large dependence of workers on purely cash income and the high cost of living; on the other side are the preponderant rural population, the farmers with their shelter and food supplies "not counted", the relatively lower cash earnings of farm labor, and low cost of living.

The comparison, furthermore, is made by states, each [fol. 3765] state being a unit. So far as this chart is concerned, therefore, Texas is only equal to Rhode Island or the District of Columbia or Delaware, whereas its area is more than three times greater than all New England. I have wondered just what would be the ideal situation for a state in this chart. Are the two states that come nearest to such ideal the State of Oregon first and the State of Indiana second since they are nearest the cross roads of the vertical and horizontal lines; or is it Nevada, with its

greater than average proportion of natural resources and its substantially higher average income; or is it the District of Columbua that is the mecca for all the economically ambitious, which appears to have no measurable natural resources or manufacturing industry but bursts through the upper limits of the chart as to average income?

I can only assume that the purpose is to reduce the number of people engaged in raw material production, which would tend to draw the state toward the vertical line that itself, as a result, would recede to the left. Those leaving raw material production are to go into industry and rely wholly on cash incomes that must be greater and so would rise toward the top of the chart and the per capita income would also rise. I think, however, that if this chart is based, as is contended, upon "a tremendously significant relationship", the perfect state of balance and, therefore, the per-
[fol. 3766] fect state, could only be arrived at where the state itself was wholly self-sufficient. That this would be devastatingly disastrous for the state and for the nation I think no one would question.

After all, there are too many exceptions in the chart itself to establish an "inescapable principle". The states comprising the Mountain Pacific Rate Territory, as shown in the chart, are scattered all about. The witness, however, could happily say that this rate territory is not involved in this case. It ought, however, to be involved in any "inescapable principle". The states in this territory clearly do not follow the principle indicated. I need not take time to point out other discrepancies, which are apparent.

I shall undertake to demonstrate that the factor of correlation has been wholly misinterpreted in this chart. The states, as I have said, have been presented in order of arrangement on the basis of their relation to the national average of workers engaged in raw material industries to total number of employees. The real factor of correlation in this chart is not this relationship at all but is the relationship of rural population to total population.

On page 6 of my exhibit I produce a table on population from the 1940 Census by freight rate territories which shows by states the total urban and rural population and the percentage of urban and rural population. In order to
[fol. 3767] demonstrate that the real factor of correlation in Chart II as presented in Exhibit 76 is the ratio of rural population to total population, I have had drawn a chart

with similar designations to those of the aforesaid Chart II for the purpose of comparison. It is based upon the table on page 6 of my exhibit and appears on page 7 of my Exhibit 177. The striking similarity of the positions of the various states in this chart to those which they held in Chart II of Exhibit 76 demonstrates that the factor of correlation which determines the order of the states is, as I have said, the ratio of rural population to total population.

The essential relationship to be measured in the two charts is the relationship of states to national average per capita income. Naturally the position of each state to the vertical line is different for in Chart II of Exhibit 76 the vertical line represents the national average, or 20.8 per cent in raw materials operations, while in this graph the vertical line represents the per cent of rural population for the United States or 43.48 per cent, including those on farms and in towns up to 2,500 population.

It will be seen that the District of Columbia and the state of Mississippi are at the extremes in both charts; that the average of the Official and Mountain Pacific territories held almost precisely the same relationship to each other, as related to the average national per capita income; that [fol. 3768] the same is true of the averages for the Western Trunk Line, the Southwestern and the Southern Territories. Mountain Pacific states are still scattered all about, but each state holds the same position to national income on this basis and as related to each other.

I am not claiming that this chart has any other important significance than to disprove the contention made with respect to Chart II in Exhibit 76. The rate territories and the states therein arrange themselves in this fashion as related to the average income per capita for the country as a whole, on the basis of the relative proportion of the population within the state dependent solely upon cash income. That is what both graphs show. If there is an "inescapable principle" involved it is this, and only this. This is what happens when a larger and larger number of people live in cities and become dependent solely on cash incomes, or conversely, as a larger proportion of the people live in rural districts where cost of living is lower and more and more of the cost of shelter, food and even fuel are "not counted" in the national income. In all this there is no true measure of the relative standard of living or of the relative economic wellbeing of the people.

There is an additional point I wish to mention in connection with Exhibit 76 which relates also to Exhibit 104 introduced by Witness Frederick. This point has reference to [fol. 3769] the effect of freight rates on manufacturing profits. It is referred to by Witness Spottswood in mimeographed statement pages 29-32. It also appears in Exhibit 104, pages 2-7. In both of these exhibits individual manufacturing establishments are cited and the actual freight charges are shown, then the total charges when some kind of Official Territory rates are applied, and the difference between actual and Official Rate Territory totals. This difference between charges when so-called Official Territory rates are applied and the actual charges is shown related to net profits of the companies.

In connection with these instances it is acknowledged that the costs of manufacturing, or the differences in cost of manufacturing, cannot be placed as a burden upon a single element of cost. It is, of course, true that every manufacturer is seeking to realize a profit from his operations. If he does not do so, it may be that any one of items of his cost is too great or a combination of them is too great as related to the price which he receives for his product.

I am, however, not particularly interested in this factitious method of undertaking to place the entire burden upon the freight rate. I have demonstrated the advantages in other and more important manufacturing costs in these other rate territories as compared with Official. The point I want to make is that neither in Exhibit 76 nor in Exhibit [fol. 3770] 104 is the slightest reference made to the fact that rail transportation at an efficient standard is absolutely essential for the very existence of these manufacturing plants. There is no mention anywhere of the fact that the revenues of rail carriers must be sufficient to sustain them. There is only the reference that revenues must be taken away. There is no reference in either of these exhibits or in the testimony to the fact that railroads themselves are important establishments in these rate territories. I have, therefore, prepared a table in my exhibit, page 8, showing railroad purchases, number of employees, total payroll and state taxes paid by railroads for the Southern, Southwestern and Western Trunk Line rate territories and by states, for the calendar year 1940.

These figures are well worth consideration. The sums paid to railroads in freight rates do not represent sums of

money that are taken out of the states in these rate territories. The railroads are not only of vital importance to the existence of industries in these rate territories but they are also excellent industries themselves and possess economic virtues as is shown clearly by the amount of purchases of materials and supplies and of new equipment in the amount of $197,601,078, the number of employees, 406,219 and the total compensation paid to them, $653,709,287 and the amount of railway tax accruals, $70,942,846 paid [fol. 3771] toward the upkeep of state government, for the single year 1940.

Q. Now, Doctor——

A. The total of these sums is $922,253,211.

Q. Doctor, this data respecting railroad purchases, number of employees, total payroll and taxes, on sheet 8, is shown by individual states in each one of these freight rate territories, Southern, Southwestern, Western Trunk Line?

A. Yes, sir.

Q. Was this Exhibit 177 prepared under your supervision and direction?

A. Yes, sir.

Q. And it is true, to the best of your knowledge and belief?

A. Yes, sir.

Mr. Bell: We offer Exhibit 177 in evidence.

Chairman Aitchison: Without objection, it is received.

(Exhibit 177, Witness Duncan, received in evidence.)

Mr. Bell: Mr. Chairman, one of counsel has just suggested to me that Mr. Duncan must be getting pretty weary, that he is about to take up a new subject, being the third proposition of Mr. Spottswood's statement, beginning on page 36; that in view also, I assume, that the Doctor is getting pretty tired, with this rapid-fire testimony, it might be well to adjourn until tomorrow morning. I know the Doctor must be tired. He has been going at a rapid clip here [fols. 3772-3773] for quite a while. I know I am getting tired even listening.

Chairman Aitchison: We will suspend until 9 o'clock in the morning.

(At 9:45 o'clock P.M. November 24, 1942, adjourned to 9 o'clock A.M. November 25, 1942.)

[fol. 3774]

Hotel Deshler,
Columbus, Ohio,
November 25, 1942.

Met, pursuant to adjournment, at 9:00 o'clock a. m.

Before Division 2 of the Commission

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding.

Hon. Walter M. W. Splawn, Commissioner,

Hon. J. Haden Alldredge, Commissioner,

And a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by: Mr. John J. Murphy, South Dakota Public Utilities Commission; Mr. George McConnaughy, Public Utilities Commision of Ohio; and Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul O. Carter, Examiner; W. J. Koebel, Examiner; T. Leo Haden, Examiner.

Appearances: As heretofore noted.

[fol. 3775]

Proceedings

Mr. Bell: Dr. Duncan.

C. S. Duncan resumed.

Direct examination (continued).

By Mr. Bell:

Q. Dr. Duncan, you are to begin this morning, I believe, with a discussion of the third proposition in Mr. Spottswood's presentation.

A. Yes, sir.

Q. Will you proceed.

A. I state the third proposition in Mr. Spottswood's statement as follows: "The disparity in class rate levels tends to perpetuate present regional specializations, thereby keeping the south and west tied to their long-time overdependence on raw material production."

To this proposition I offer dissent on two grounds. The first ground of dissent is that there is no difference in class rate levels that today constitutes the determining or controlling factor in the location of industrial plants.

Mr. Bell: Right there, if the Bench will pardon me, I recall that there was some discussion as to the position of what might be termed the complaining witness in this case, as to whether or not this adjustment was controlling. I think Commissioner Alldredge asked a question of some [fol. 3776] of the preceding witnesses, which was in effect this, if they had ever heard of any contention being made that the class rate adjustment was controlling. Now, with your permission——

Com. Alldredge: Controlling of what?

Mr. Bell: Controlling of the development or growth of industry in the South.

Com. Alldredge: No. The question that I asked was very much broader than that. You are talking now, I take it, particularly about Mr. Widell.

Mr. Bell: Yes.

Com. Alldredge: My inquiry of Mr. Widell.

Mr. Bell: Yes.

Com. Alldredge: He made the statement that freight rates were not controlling.

Mr. Bell: With your permission I would like at this time to state the position of the Governors Conference, as stated by Governor Cooper of Tennessee: "The Southern Governors believe that the discriminatory freight rates now in effect operate to discourage and exclude industry in the South."

Mr. Norman: Well, now just a moment, Mr. Bell. Go ahead and read the rest of it, where he says he knows that that is not the sole factor.

Mr. Bell: You may read the rest of it yourself, or have it read. "Exclude" means "control."

[fol. 3777] By Mr. Bell:

Q. Proceed, Dr. Duncan.

A. The second ground of dissent is that the proposition disregards existing and available facts as to industrial development, to some of which I have already referred and to which I shall add some additional recent data.

Factors in industrial location. I shall first discuss very briefly the subject of the relative importance of various factors in the location of industrial plants.

Let me say at the outset that adequate transportation facilities are now and have always been an essential element

in modern industrial development since we passed out of the household economy stage. That is one reason why transportation is affected with public interest. The point I want to make is that tranportation facilities are abundantly available by rail, water and highway.

I do not presume to say that there are no situations under which relative transportation charges are important in plant location. Railroad transportation costs are higher than "open water" transportation for the reason that they must make great expenditures for roadway improvement and maintenance. I admit also that on inland waterways, where industries may operate their own boats when, where and at what charge they will and pay nothing for their use of waterway improvements provided by government, there exists an important factor in plant location.

[fol. 3778] What I am going to say is limited to rail rates on manufactured goods moving to market. On the great bulk of such commodities, rail rates, published and open to all, are so small an element of ultimate cost that it cannot be counted as a determining or controlling factor in the location of an industry producing them.

It is under conditions such as these that industrial plant location is determined. The subject of the factors which determine its location is one to which both economists and practical business men have given considerable attention. Economists began their studies as so-called classical economists, that is, theoretically, and for a time had no great practical influence. The classical theoretical study of the subject was made by a German economic student, Dr. Alfred Weber, and this study is still inflicted upon students of economics. It is attractive for such purpose because beautiful graphs and symmetrical curves can be drawn from the assumptions with delusive accuracy.

The subject of plant location stimulated some studies by economists in this country between 1894 and 1900 and to such an extent that cognizance was taken of it in the Census Report for 1899. In that report, Dr. Freedrick S. Hall, of the Division of Manufactures, Bureau of the Census, wrote an article under the title "The Localization of Industries" which appeared in the Twelfth Census of the United States, [fol. 3779] 1900, Volume VII, Manufactures, Part I, pages cxc-cxiv. This article attracted widespread attention among practical industrialists and stimulated further studies.

Dr. Hall in his study made use of the census data for 1889 as well as for 1899, thus covering a 10-year period. He selected fifteen industries, "where this localization is conspicuous", and after careful investigation of these industries announced his conclusion in these words: "Seven of the various advantages which give rise to the localization of industries may be stated as follows: First, nearness to materials; second, nearness to markets; third, water power; fourth, a favorable climate; fifth, a supply of labor; sixth, capital available for investment in manufactures; and seventh, the momentum of an early start."

As to these factors Dr. Hall said that all "except the last operate to prescribe the broad area within which an industry is economically possible." He does not attempt, however, to weigh the relative importance of these factors, abstractly or theoretically, but he does discuss briefly each of the industries with reference to the general reasons why they located where they did and also why they have changed their location, if they have made a change. I shall cite a few instances to illustrate the point. They also have some pertinence to the question here involved.

Dr. Hall noted that the cotton industry was first estab- [fol. 3780] lished in New England because of the climate, "cotton spinning requiring", as he said, "a moist atmosphere, and abundant water power." He then called attention to the striking change in the location of this industry during the preceding twenty years "by its rapid advance in Southern states, especially South Carolina, North Carolina and Georgia. In this section, he said, the industry is favored "by accessibility of raw materials, of abundant water power and the low cost of living." For this industry, therefore, it would appear that accessibility to raw materials and low cost of living were the controlling factors, since all the other factors were present in New England.

A shift in the location of the glass industry from New Jersey and Ohio to Indiana was also cited. Dr. Hall stated that fuel was the determining factor in location for it is the most important item in the cost of materials in that industry, "the localization of which has always been determined by this factor." The fuel factor referred to is natural gas.

Dr. Hall pointed out further that the jewelry industry, pottery, hosiery and knit goods, boots and shoes were located where labor was to be had. The jewelry industry in Rhode Island and the pottery industry in Ohio were

located where labor skilled in those industries settled when they came to this country. This is also true of hosiery and [fol. 3781] knit goods. The boot and shoe industry grew out of the business carried on by local cobblers in New England who were skilled in making footwear. Certain industries, he pointed out, follow raw material supply, as, for example, tanning, pulp and paper and meat packing.

These were the factors and their relative importance in certain industries as found by Dr. Hall at the turn of the present century. The relative unimportance of freight costs on manufactured goods is obvious.

The interest in the subject of industrial plant location grew dim in the years following Dr. Hall's article. There was some revival in the early days of the Scientific Management Movement headed by Frederick W. Taylor around 1912-1915. The next real flurry of excitement, however, came in the last years of the 20's. It was due, in my opinion, to four factors, namely, the effect of the Panama Canal on the movement of transcontinental traffic, in connection with the Commission's interpretation of the "reasonably compensatory" provision in the Fourth Section amendment of the Transportation Act, 1920, the development of highway transportation, and lavish expenditures on waterway improvements.

From 1926 on to the period of depression there was widespread talk of the "migration' or "relocation" of industry. I happened to be at that time a member of the Committee on Industry of the United States Chamber of Commerce. It seemed to me that every little village and town was seek- [fol. 3782] ing an industry all its own.

In consequence, the Census Report for 1929 gave particular attention to this subject. A special series of inquiries was issued. The data were analyzed by Mr. Tracy E. Thompson, Industrial Analyst, Bureau of Census, and a brochure by him was reprinted separately under the title "Location of Manufactures, 1899-1929", issued in 1933. Some of the data on page 3 of my Exhibit 177 was taken from this report.

Q. Page 3 you discussed at some length last night.

A. Yes.

Q. Covering the subject of wage earners and manufacturing establishments by freight rate territories, from 1899 to 1939, including the Census, 1919 to 1929.

A. Yes, sir.

Q. Proceed.

A. While the factors affecting plant location are not discussed in this pamphlet, reference is made to Dr. Hall's "seven advantages" and attention is directed to the effect of those factors. It will be noted that this survey covers a thirty-year period, 1899-1929, carrying forward Dr. Hall's study. From his investigation of industrial plant relocation Mr. Thompson concluded—and I quote from page 47:—"The effect of redistribution of industry in the past thirty years—both regionally and in areas of concentration—has been to establish more nearly an equilibrium between [fol. 3783] population and wage jobs. The extent to which this has taken place is seen in the narrowing of the extremes in wage jobs per 1,000 population, from 34 in other areas, to 124 in the primary area—referring to Official Territory—in 1899, to 45 to 106, respectivly, in the two types of regions in 1929." See page 47. In other words, the data have been assembled on the basis of the Census Reports, the primary area referred to corresponding substantially with Official Territory.

This substantial shift in industry within the thirty-year period is not in accord with the contention to which I am devoting attention and furnishes no evidence whatsoever that there has been in railroad class rates an obstacle to the development of industry in the Southern, Southwestern and Western Trunk Line rate territories. I propose to show in a moment the great variety of industries that have developed in these three rate territories.

I turn, first, to something more specific and practical in character. The statements which I shall quote are so much in accord with my own judgment, observation and study that I am willing to adopt the words as my own testimony.

At a conference on "The Migration of Industry", held in New York City, on May 3, 1928, which I attended, Mr. Albert L. Scott, President of Lockwood, Greene and Company, nationally known industrial engineers, talked on the [fol. 3784] subject of "Factors in Locating Plants Today," later issued in pamphlet form. He spoke from thirty years of his own experience and the broad experience of his own company in solving problems of proper plant location.

As to the most important factor in plant location, Mr. Scott said: "I think the most prominent factor, and one

which is often overlooked by local Chambers of Commerce when they are seeking industries, is the factor of the personality of the man who is to run the plant. We get many inquiries at our offices from various organizations asking to have plants located in their territories or in their cities, but we do not very often have a statement from a Chamber of Commerce which says 'we have a man, a real man, a man of courage, a man of conviction and a man of character about whom we would like to build an industry'. They often talk about the national resources of their locality but very seldom about the man. My observation is that industries are built around men and that is the first and most important thing in locating a plant." See page 3.

There are many illustrations of this factor that can be readily ascertained. I have no doubt it is true of the Ford Motor Plant. I know it is true of the production of Postum cereal coffee at Battle Creek, Michigan.

As to the second factor, the factor second in importance in plant location, Mr. Scott said: "Among the more important of the general causes which influence the location [fol. 3785] of plants, I think perhaps the most important is climate. See page 5.

The factor next in importance in plant location, Mr. Scott thought, particularly for industries where the labor cost is a substantial part of manufacturing costs, and this applies to the great majority, was an abundant supply of labor. It was his judgment that—and I quote further—: "The reason *reason* why the textile industry has moves south and why it will continue to move south until those conditions are changed is the wonderful supply of white native labor, anxious to work and willing to be subject to the proper discipline which is needed in industry. Since that supply of labor is there in the great abundance which exists today, you will find a continuing tendency for industry, not only cotton manufacturing but other industry, to move south." See page 6.

Mr. Scott cited the location of a sheet glass factory in Charleston, West Virginia, rather than Toledo, Ohio, where the parent plant was located, due to the availability of natural gas.

Mr. Scott then told about the problem which his firm had to solve with respect to the location of the rayon industry. He pointed out that the rayon industry first developed in

Europe and that foreign interests came here to locate industries in this line from England, the Netherlands, Germany [fol. 3786] and Italy. He called it a hard-boiled industry, coldbloodedly and without prejudice seeking the best possible location for rayon plants. It is of interest to note that the cost elements going into the manufacture of rayon, as Mr. Scott gave them, are: "Raw material, 25 per cent of the cost, direct labor, 45 per cent, fuel, light, power and water, about 5 per cent; administration expenses, 9 per cent; taxes, insurance and depreciation, 10 per cent; supplies and repairs, 6 per cent." See page 11.

He said that after thorough study most of these plants located in Virginia, North Carolina, South Carolina and north Georgia. Since that time they have located also in the State of Tennessee. It could not, therefore, have been railroad rates on manufactured goods that were the determining factor in the location of these plants.

In concluding his remarks, Mr. Scott said,—and I quote further—: "To sum up the principal factors as I see them in the location of plants: In the first place comes the personality guiding and directing the plant; secondly, the broad considerations of climate, which we must all take into account; and, thirdly, in proportion to the importance of these items in the final manufacturing costs and sales program of the plant,—labor supply, raw materials, nearness to market, power, and so on." See page 13.

This is the practical man's point of view after long [fol. 3787] years of experience. In my judgment, it is obvious that railroad freight rates on manufactured commodities are a relatively small and minor element in the determination of the location of industry.

As shown in the report by the Commission's Bureau of Statistics on "Freight Revenue and Value of Commodities Transported on Class I Steam Railways in the United States for the calendar year 1939", Statement No. 4045, containing the latest available data and issued in October, 1940, the per cent of freight revenue of value at destination for total manufactures and miscellaneous traffic is 5.3 per cent. Any alleged difference in rates would be a fraction of this figure, which is, I assume, a weighted average. Nevertheless, it indicates to me very clearly that the railroad freight rate on this traffic is so minor a factor in total cost as not to be controlling in plant location. It is so

unimportant that thousands of commodities have a nation-wide market wherever the producing plant may be located. There are other factors that are the determining or controlling factors.

By Chairman Aitchison:

Q. Do you have in mind in that statement, the transportation rates on the finished product?

A. Yes, sir.

Q. From point of manufacture to point of consumption?

A. Yes, sir, that is what I am talking about.

[fol. 3788] Q. And you give no weight, do you, to the inbound rates on the raw material, or the rates on the commodities which are necessarily consumed, first by the plant itself, and second, by the employees in the plant?

A. Oh, I think that those are very important factors, yes, Mr. Chairman, but they are not involved, as I understand it, in a class rate question.

Q. Why not?

A. Well, because my understanding is that class rates refer, generally speaking, to the higher-grade manufactured commodities.

Q. Would it surprise you any to know that many commodities, such as cement, move on carload class rates?

A. No, sir, it would not surprise me, although generally speaking I thought that the manufactured goods, the highly-manufactured goods, were the ones that moved on the class rates.

Q. And your testimony here is predicated on that premise, is it?

A. It is based on that premise, yes, and to the extent that that is not true, I imagine that it would have to be qualified to that extent.

Q. Well, would you say that there is represented in the cost, the ultimate cost of the highly-manufactured product, the traditional example, of course, being the silk hat, [fol. 3789] not alone the freight on the silk hat from the point of manufacture to the point of distribution by the retailer, but also all of the freight which accrues in the production of the silk hat itself, and also in the production of the raw materials which go into the manufactured article, and all of the freight which represents transportation in

connection with the consumption of the entrepreneur and his employees, as well as the maintenance of the plant.

A. Oh, all of those factors are important factors, yes, Mr. Chairman, and unquestionably so.

By Mr. Bell:

Q. Dr. Duncan, those factors enter into the cost of production, and you have commented upon the relative cost of production in the various territories; is that not correct?

A. Yes, sir.

Q. You are now talking about the outbound class rates?

A. Yes.

By Chairman Aitchison:

Q. Well, now, just so that there will not be any uncertainty about it in the record—I just want to make sure—you assent to the last statement of Mr. Bell, do you?

A. I assent to it, yes.

Chairman Aitchison: Very well.

By Mr. Bell:

Q. That is to say, Dr. Duncan, the proximity of raw material compared with the necessity for the transporta-[fol. 3790] tion of raw material for long distances, in other territories, would be one of the elements of the cost of production of the product that is shipped out under these class rate adjustments; is that correct?

A. Yes, sir.

Q. Proceed.

A. And so it is that Mr. Thompson, after his survey of census data in "Location of Manufactures, 1899-1929", reached his conclusion, which I have quoted above, that both regionally and in areas of concentration during the thirty-year period there has been a redistribution of industry "to establish more nearly an equilibrium between population and wage jobs." Page 47. And so it is that he is able to show a redistribution of widely diversified industries.

Diversified distribution of industries. Mr. Thompson pointed out that in 1929, as compared with 1919, there were in absolute number 2 per cent fewer factory workers in the country as a whole. In ten industries, however, he found

an increase in the number of workers. These industries were electrical equipment, canned and baked goods, furniture petroleum products, chemicals, motor vehicles, clothing and printed matter. In these industries every section of the country showed an increase in the number of workers.

Mr. Thompson adds,—and I quote—: "The share of the manufacturing East in the group of industries declined [fol. 3791] from 45 to 40 per cent, while the states of the South and Pacific Coast increased their combined proportion from 14 to 19 per cent." See page 45.

As to another group of eight industries including the manufacture of meat, lumber products, tobacco, ships, musical instruments, leather, and woolen and worsted goods, Mr. Thompson found that "the manufacturing East lost some of its former share."

Another group of fourteen industries comprising shoes, paper boxes, clay products, confectionery, cotton goods, engines and tractors, glass, hardware, rolled steel, nonferrous metal, alloys, planing mill products, silk and rayon manufactures, and structural and ornamental iron and steel products, according to Mr. Thompson, shows that—and I quote—: "The manufacturing East lost heavily in its share of wage jobs in these industries as a group; but every other division except the Mountain increased its portion appreciably during the decade." That is, from 1919 to 1929; see page 46. He specified that New England produced 49 per cent of the shoes made in 1919 but only 39 per cent in 1939. In 1919, he said, New England produced 47 per cent of our cotton goods but only 30 per cent in 1929, while the South Atlantic states increased from 38 to 44 per cent.

In 1926 a man came to see me to ask for certain railroad data and for railroad cooperation in a study of the indus- [fol. 3792] trial potentialities of the South. For cooperation I referred him to the energetic agricultural and industrial agents of the Southern railroads. My attention having been called to the studies contemplated, I have followed with much interest succeeding publications in a series entitled "The Blue Book of Southern Progress", published by the Manufacturers Record Publishing Company of Baltimore, Maryland. The Southwestern Freight territory is included as a part of the South in this publication.

Q. That is to say, the four states of Arkansas, Oklahoma, Texas and Louisiana are included in this publication as part of the South; is that correct?

A. Yes.

Q. Proceed.

A. I have reexamined some of the recent copies of this publication and for the most part have verified the data from the Census or other sources. In the Blue Book for 1937, supporting the statement that great economic changes are taking place in the South, it is said: "More than $450,000,000 have been invested in constructing and improving Southern industries in the 18-month period prior to July 1, 1937. It surpasses the record of any similar period in the South's history." See page 7.

The source of this statement is F. W. Dodge Company, who have certified to its substantial accuracy, upon my [fol. 3793] recent inquiry.

In the same issue it is pointed out, and accurately from Census data, that as of 1936 agriculture is "out-distanced" by manufactures, in the South which includes the four states in the Southwestern Freight Rate Territory. See page 9.

The issue of 1939 states: "Southern development has been a bright spot during a depression period which has halted business and capital investment in the United States. Comparable figures of the South and the rest of the country show a proportionate growth here in basic lines of enterprise exceeding other area." See page 9.

The supporting data for this statement were taken from the Census reports, which I have verified, and are as follows: "Between 1935 and 1937 the number of establishments with an annual output in excess of $5,000 increased 803, from 34,143 to 34,946, which is in sharp contrast to the decline of 3,120 establishments for the country as a whole." See page 13.

Mr. Bell:

Now, at this point, if the Commission please, I would like to call attention to the correction of two errors in figures, in the last statement of Dr. Duncan, on page 46 of the statement which has been circulated. The first figure that now appears there of 34,413 should be 34,143; and the second figure, which now reads 34,941, should be 34,946,—which makes a difference of 803.

[fol. 3794] Chairman Aitchison: I would like to ask how Dr. Duncan verified the Census.

The Witness: It was verified from Census data, Mr. Chairman.

Mr. Bell: I think you must have misunderstood him, Mr. Chairman. His testimony was that he verified the statement in the Blue Book of Southern Progress by the Census.

Chairman Aitchison: That is not what he said. He said, "The supporting data for this statement was taken from the Census reports, which I have verified."

Mr. Bell: That is right, of course.

By Mr. Bell:

Q. You did not intend to say that you verified the Census reports, did you, Doctor?

A. Oh, no.

Q. What you meant was that you verified the statement that appeared in the Blue Book of Southern Progress; that is correct, is it not?

A. Yes, sir, that is what I intended to say, that I verified the statement appearing in the Blue Book of Southern Progress, from the Census data.

Q. Proceed.

A. As shown from Census data for the rest of the country, the number of establishments in 1935 was 134,968, and in 1937 was 131,848, a decline of 3,120.

The 1940 issue of the Blue Book declares: "The South [fol. 3795] is moving forward in the development of its resources at an accelerated pace. (See page 9.) Business in general and manufacturing in particular throughout the South have been more stable than in other parts of the nation. The progress took place at a time when industrial production for the United States as a whole suffered a marked decline." (See pages 9-10.)

Q. Right in that connection, Doctor, that is supported by sheet 3 of your Exhibit 177, showing wage earners in manufacturing establishments and in freight rate territories, for the four decades shown; is that correct?

A. Yes.

Q. Proceed.

A. Continuing with the quotation: "Scientific investigation is leading capital to a section that possesses all indispensable requirements of success." (See page 10.)

In support of this last statement, the rayon industry is cited in these words: "This is shown again, and impressively, in the remarkable upbuild of the rayon industry. Here we have half of the country's thirty mills making rayon yarn and staple fiber, but this half in the South turns out 73 per cent of the United States products." (See page 10.)

The Census figures for 1937 which are referred to in the above statement show that there were 33 mills in the United States and 17 of them were in the Southern states. [fol. 3796] On a basis of output, as reported by the Census, some of the states having three or less manufacturing plants and, therefore, not reported, the output of the Southern Mills represents from my calculations approximately 68.3 per cent of the United States total. It has been impossible to check the statement any closer than that.

For 1941 the Blue Book of Southern Progress says: "In examining the facts and figures printed in this volume, one sees quite clearly the strength of the foundation on which the South's progress is based. Development here has been proportionately more responsive to good times than in other areas of the country, and too, as statistics prove, depression years were felt less than elsewhere.

"In the vast array of subjects treated which cover not only national resources, but the South's development from every major standpoint, it is evident that the growth which is taking place in the Southern states can be justly termed phenomenal. Even in 1939, which was a comparatively poor year, the number of wage earners in the South was but 2,000 less than the total employed in 1929, while the decline in the rest of the country was 950,000.

"There are now 38,980 manufacturing establishments in the Southern states, the number increasing by 4,034 between 1937 and 1939. The total value of the manufactured output, as estimated by the Manufacturer's Record, now [fol. 3797] exceeds $12,000,000,000. It is not possible in the limited space to list individual industries, but we are presenting an adequate view of the varieties of manufacture in the Southern states which we have separated into twenty groups." See page 9.

Q. That is the end of the quotation, is it?

A. Yes, sir.

Q. Proceed.

A. The facts relating to the increase in the number of

manufacturing establishments are substantiated by the Census reports for the years 1937 and 1939. From these facts, gathered from governmental and other sources——

Q. You are talking now about your preceding testimony, generally, are you, Doctor?

A. Yes, sir.

Q. And you will be from now on?

A. Yes, sir.

Q. Proceed.

A. —It is clearly demonstrated that railroad rates on manufactured goods are not and have not been the determining or controlling factor in industrial plant location and that the rate territories throughout the country are developing industrially to the extent that it is possible to show convincing advantages in other more important factors. This applies to a wide diversity of industries. [fol. 3798] No fixed relationship of industrial development exists.

The three propositions of Mr. Spotswood to which I have directed attention, as a result of the facts that I have presented and the criticisms that I have offered, are shown to be in error. The tables and the charts in Exhibit 76 presented to support them do not afford support.

The prejudicial words and phrases occurring in the testimony of this witness such as "mother country and colonies," "handicaps," "tariff-barriers," "economic bottlenecks" are not founded on fact.

Q. Doctor, referring to Dr. Frederick's Exhibit No. 104, which I think you have—if not, I have a copy—will you please proceed to make such comments as you have to make on that exhibit.

A. Exhibit No. 104, of Dr. Frederick, was so brief in character, and contained so little of useful data, that one cannot either interpret it, or find a basis for acute criticism. I read the transcript after arriving here, and I did not find in the transcript a full enough explanation, to satisfactorily review that particular exhibit.

By Chairman Aitchison:

Q. Did you go back to the work sheets?

A. The transcript had something in it about the work sheets having been made available, or that they would be made available, but I never found them.

[fol. 3799] Q. Well, did you make any inquiry with respect to them; or did you need them, or want them?

A. I only saw the transcript yesterday, your Honor, and therefore I did not have time to make any inquiry.

Q. Well, then, I assume that you did not ask for the work sheets, did you?

Mr. Bell: No, we did not.

Chairman Aitchison: I am asking the witness.

A. I did not ask for the work sheets; no, your Honor.

By Chairman Aitchison:

Q. Did you need them?

A. Did I need them?

Q. Yes.

A. Yes, sir.

Chairman Aitchison: Well, I assume that they would be made available, if you desire them, if you made request for them, since it was stated, at the time that Exhibit 104 was introduced, that the work sheets would be made available.

Mr. Bell: Dr. Duncan, as I stated last night, your Honor, will appear at the Washington hearing, in order to enable counsel for the Commission to cross-examine him; and if we might be able to get those work sheets in the meantime, we would be very glad to examine them.

Chairman Aitchison: I should suggest that you direct an inquiry to the counsel who presented Dr. Frederick.

Mr. Bell: I do not know who that was.

[fol. 3800] Mr. Shepard: If the Commission please, those work sheets were in the hands of the carriers for about two or three weeks, following the Indianapolis hearing. However, I have them here right now, and if they desire to examine them any further, I shall be very glad to make them available to them.

Mr. Bell: Thank you very much. May they be loaned to us, then, with the guarantee that they will be duly returned?

Mr. Shepard: For how long a period do you think you might want the work sheets?

Mr. Bell: Well, I do not have any idea at the moment, of course, as to just when the hearing in Washington will

take place. Perhaps the Commission could give us some idea as to that.

Chairman Aitchison: Not at the moment.

Mr. Bell: Well, if you will turn them over to me, I will insure their being returned in toto, and in good condition.

Mr. Shepard: Well, as I say, I have the work sheets here. Do you think you could examine them here, before the hearing is concluded here?

Mr. Bell: Oh, I do not think we would be able to do it at this hearing, no, sir.

Chairman Aitchison: Why cannot Dr. Duncan, after he has been excused from the witness stand, examine the work [fol. 3801] sheets right here?

By Mr. Bell:

Q. Could you do that, Doctor?

A. Yes.

Q. And then make such notes therefrom as you see fit; and then if you have any further comment to make on the exhibit, you can make it at Washington.

A. Yes.

Mr. Bell: That is all of the direct testimony of Dr. Duncan at this time, if the Commission please. Is it the desire that all of his cross-examination be deferred, until the Washington hearing? I have primarily in mind, counsel for the Commission, but I do not have any objection to others delaying their cross-examination as well, if they will do so in toto. I do not want it piecemeal, by any particular representative, however.

Chairman Aitchison: I should suggest that any gentleman who is here, and who is not going to be in attendance at the hearing at Washington, have the privilege of cross-examining the witness at this time, if he desires to do so.

Mr. Bell: That is quite all right, your Honor; there could be no objection to that.

Chairman Aitchison: Is there any one, then, who desires, under the circumstances, to cross-examine Dr. Duncan at this time? (No response.) There seems to be no one. You many stand aside, then, Doctor.

[fol. 3802] The Witness: Thank you.

(Witness excused.)

Chairman Aitchison: Are the Southern lines ready to proceed now?

Mr. Dixon: Yes.
Chairman Aitchison: Proceed.
Mr. Dixon: Mr. E. R. Oliver, please.

E. R. Oliver was sworn and testified as follows:

Direct examination.

By Mr. Dixon:

Q. Please state your name.
A. E. R. Oliver.
Q. Your residence?
A. Washington, D. C.
Q. Your occupation?
A. Vice president in charge of traffic, Southern Railway System.
Q. Mr. Oliver, how long have you been vice president in charge of traffic of the Southern Railway System?
A. Since November 1, 1924. I would also like to add that prior to that time I held various positions in the Traffic Department of the Southern Railway System. From 1916 to 1920 I was in charge of the Southern Railway System general freight office at Atlanta, Georgia. From 1920 to 1921 I was general freight agent and freight traf- [fol. 3803] fic manager respectively of the Southern Railway System Lines West, Cincinnati, Ohio. I was then made vice president of the New Orleans & Northeastern Railroad, at New Orleans, Louisiana. In 1923 I was made freight traffic manager of the entire Southern Railway System, at Washington, D. C. On the death of Mr. E. H. Shaw, I succeeded to the vice presidency on November 1, 1924, approximately 18 years ago. My entire traffic experience has been within the South. I am a native Southerner. I might add that my entire work has been in an effort to upbuild the South and the Southern Railway System, for which I have worked all of my business life.
Q. As vice president in charge of traffic of the Southern Railway System, Mr. Oliver, do you also have jurisdiction over the Industrial Development Department of the Southern Railway System?
A. Yes, sir, I do.
Q. And also the Agricultural Development Department of the Southern Railway System?
A. Yes, sir.

Q. Will you please proceed to discuss in your own way, the industrial development in the South.

A. Shortly after the end of the Civil War, and the disastrous so-called reconstruction period that followed, there was a man in Georgia, the Honorable Henry W. Grady, who lifted up his voice and laid down a principle which [fol. 3804] has since been our guide. Mr. Grady said that no nation, or section of a nation, ever became great through agriculture alone. Realizing the fundamental soundness of that policy, the Southern Railway System was one of the first railroads in the South to undertake, in a large way, the industrial development of the territory that it serves. We also undertook to influence and bring about as far as possible, the diversification of agriculture. At that time the economy of the South was tied hand and foot to a one-crop system of agriculture, which was the cotton crop; and our then president, Mr. W. W. Findley, who was a native of the South, went about the territory preaching the necessity for diversification, and also preaching the necessity for the industrialization of our territory. That policy has been followed by successive presidents of the Southern Railway System, and it is the policy of the Southern Railway today, to do everything that it possibly can to encourage the industrial development of the territory that it serves. We want to serve a prosperous people, and we do not think that that can be accomplished by serving agricultural people alone. Along with the industrialization of our territory we have continued to do everything that we possibly could to bring about the diversification of the agriculture of the South.

Now, Mr. Chairman and gentlemen of the Commission, in connection with the industries that we have been able to [fol. 3805] encourage to locate in the South, I would like to take up and briefly discuss with you some of the things that enter into the location of industries, and some of the things that decide the location of industries.

Chairman Aitchison: I want to ask at this time, because it may save some time in the examination of this witness and other witnesses, if there is any contention on the part of anyone that the Southern railroads have not been alert, or have not done all that they reasonably could do, in the exercise of their own good judgment, as to means of furthering development in the South

The Witness: I had the impression——

Chairman Aitchison: Just a moment.

Mr. Norman: There is no such contention here, sir.

Chairman Aitchison: I did not hear.

Mr. Norman: I say, there is no such contention, as far as we are concerned, no, sir.

Chairman Aitchison: Is there such contention on the part of anyone?

Mr. Grubbs: Of course, if your Honor please, as far as the Southern carriers are concerned, we are very anxious to show specifically just what we have done in that direction.

Chairman Aitchison: Yes, I understand that, but I thought possibly it might clarify that particular point, and it might also save some time in connection with the exam-[fol. 3806] ination of this witness and other witnesses, if that question were raised at this time. Of course just at the moment I have Mr. Oliver's testimony primarily in mind.

Mr. Grubbs: Yes.

By Mr. Dixon:

Q. Mr. Oliver, did you hear the question which the Chairman has directed to you?

A. Yes, I believe I heard the question, but as I understood it, it was directed to Mr. Norman.

Chairman Aitchison: It was directed to everyone here.

Mr. Dixon: I thought probably you had not heard the question, Mr. Oliver. Will you read the question, please, Mr. Reporter.

(Question read.)

The Witness: Well, if I understood it correctly, that question was not directed to me specifically.

Chairman Aitchison: Nobody said it was.

The Witness: No, nobody said it was. The Chairman said that it was directed to everyone here. Well, in any event—

Chairman Aitchison: Just a moment.

Mr. Bee: If the Commission please, there is no contention upon our part that the carriers in the South or Southwest have not done all that they reasonably could, or that they thought was proper and right, to facilitate the development of industry in the South or Southwest.

[fol. 3807] Mr. Norman: Well now, when you say "carriers", I will not go along with that. I am confining it, as far as I am concerned, to the Southern carriers. However, quite the contrary is true, so far as the Official Territory lines are concerned, concerning the South.

Chairman Aitchison: My question was directed to the Southern carriers, and to every one of the Southern carriers, not merely to the respondent carriers, but also to those who are appearing as interveners in opposition to the respondents.

Mr. Dixon: May I proceed, your Honor?

Chairman Aitchison: Yes.

By Mr. Dixon:

Q. Please continue, Mr. Oliver.

A. Well, at the outset, Mr. Chairman and gentlemen, I believe I am safe in saying that we certainly have overlooked no reasonable opportunity to establish industrial locations in the South. If we have, then I should feel that I certainly have missed the point of my employment over a period of a great many years, as a responsible traffic officer of one of the major Southern lines. Now just very briefly, I would like to deal with some of the major industrial developments within the South; and at the outset, I want to pay a tribute both to our labor situation, and to our climate both of which I believe have been of inestimable value to us in accomplishing what has been accomplished. [fol. 3808] Of course, the outstanding industrial development of our section has to do with cotton. Under the old economy of the South, we shipped our cotton either to England or to New England, where it was manufactured, and we then bought the manufactured goods. The development of that industry in the South first began in a small way when the products of our mills were of the coarser, cheaper kinds; but we now make the finest fabrics that are produced, either in the United States, or anywhere else. The broadcloth shirt that I am wearing today was made in the South. Also the underwear that I am now wearing was made in the South. In addition to our textile mills, we have developed in a substantial way the manufacture of rayon and rayon fabrics in the South. Some of the finest rayon fabrics that you can find in the retail stores of New York and Chicago, are manufactured in the South. Dr. Dun-

can referred to the fact that rayon was first developed in Europe, and then later transferred to this country. I can corroborate that statement, because we on the Southern Railway System had considerable to do with locating the Dutch rayon plant in Western North Carolina, and the Italian plant in Northwestern Georgia. I do not think it was an overstatement on the part of Dr. Duncan to say that those gentlemen were cold-blooded in the extreme, because they certainly did look the situation over from top to bottom before they finally decided where they would locate their plants. Both [fol. 3809] of those plants have prospered. They have been greatly enlarged since their original conception. I will venture the statement that the capacity of those plants is now fourfold what it was when they were originally located. Now, curiously enough, this rayon is not manufactured out of the products of the South, except in certain instances. It is true that the Italian Plant at Rome, Georgia, uses cotton linters, but the Dutch Plant in Western North Carolina uses woodpulp, most of which, prior to the war, was imported. It now comes from Canada mostly. Some of it I believe comes from the Pacific Northwest. Before I get away from the textile industry, I would like to say that we have mills in our territory that use large quantities of cotton that is raised in the states of California, New Mexico, Arizona, Texas, Oklahoma and Arkansas. Those mills all use chemicals that are manufactured in different parts of the United States; and they use large quantities of starch, that come from Iowa, Illinois and Ohio. It is readily apparent that it takes an awful lot of things to make up all of the component parts of an industry. We manufacture the finest threads to be found in the United States, at points within the South. We have enormous plants operated by the Clark Thread Company, in North Georgia. That industry was formerly located in New England—or rather, let me correct that. That plant, that is [fol. 3810] the parent plant, was located at some point in the State of New Jersey. It does not use the cotton that is grown around that territory in North Georgia; it uses long staple cotton from the Mississippi Delta.

Another industry that has reached large proportions in the South is the furniture industry and household goods industry. In the beginning, we made cheap furniture which was shipped all over the country, but at the present time we make furniture in the South that is the equal of Grand

Rapids furniture, and that as a matter of fact competes with Grand Rapids furniture all over the territory. We also make office furniture, both wood and metal. We make mattresses of the very best kind in the South.

Another industry that we have been able to locate almost in its entirety within the South is the tobacco manufacturing industry, which at the present time is very largely located in North Carolina and Virginia. Now that industry does not merely use the tobacco that is grown down there in North Carolina and Virginia. We move millions of pounds of Kentucky tobacco and Tennessee tobacco to North Carolina for manufacture into cigarettes.

By Chairman Aitchison:

Q. That is for blending purposes, is it not?

A. Well, they do blend Turkish tobacco in the manufacture of cigarettes, that is true.

Q. Do they not blend the various domestic tobaccos also? [fol. 3811] A. Well, perhaps they do, yes, Mr. Chairman, but it is the same general type of tobacco. The burley tobacco of Central Kentucky, the bright burley tobacco, is the same general class or type of tobacco as that which is grown in North Carolina. I believe they do advertise the fact that they blend those tobaccos, but, nonetheless, the great tobacco manufacturing plants in North Carolina and Virginia could not prosper as they have prospered by the use of only locally-grown tobaccos. That is the point of my statement, Mr. Chairman and gentlemen, that the location of these industries involves many, many things that are not readily apparent to the eye of the man who is sitting in a cloister, so to speak, and writing these treatises on economy. We grow a lot of tobacco in Southern Georgia and Northern Florida which moves to these great manufacturing plants in North Carolina and Virginia.

Q. In your judgment, what was it that brought about the concentration of the manufacture of tobacco in the South, in that particular radius around Durham and Winston-Salem?

A. Well, I think that one of the very potent factors that entered into that situation, Mr. Chairman, was the fact that we had one man around whom the tobacco industry down there very largely developed. That man was Mr. James B. Duke,—and I should also include one of his

lieutenants, Mr. Penn, both native North Carolinians; [fol. 3812] and they did not stop until they got the industry in North Carolina and Virginia. A good deal of that consolidation also has taken place since the death of Mr. Duke. I knew Mr. Penn very will, and it was his idea that you could manufacture cigarettes, smoking tobacco and plug tobacco in North Carolina cheaper, better and more efficiently than you could elsewhere in the country; and he gradually brought about the consolidation of practically all of the business of the American Tobacco Company in those two states of North Carolina and Virginia. Now the R. J. Reynolds Tobacco Company at Winston-Salem formerly had a branch manufacturing plant at Jersey City, New Jersey, but they wanted to consolidate their entire manufacturing operation at Winston-Salem, North Carolina. We were able to help that proposition along by putting in a carload rate on cigarettes from Winston-Salem to the New York metropolitan area, and I think the fact that we were able to do that, with the concurrence of our connecting lines north of the Potomac River, was directly responsible for the consolidation of the entire Reynolds Tobacco Company manufacturing capacity at Winston-Salem.

Q. Is that a commodity rate?

A. If I recall correctly, that rate is a commodity rate, yes, sir. I believe I am right about that.

By Com. Splawn:

Q. Mr. Oliver, would putting that commodity rate back on the class rate basis have the effect of removing that [fol. 3813] industry at the present time, would you say?

A. Well, I do not know that it would go quite that far, Mr. Commissioner, but I expect that, if we undertook to bring about any substantial increase in that commodity rate, we would certainly hear from it, and I believe I am safe in saying that we would hear from it with a vengeance.

Q. Well, it would depend upon the classification of the commodity, would it not?

A. I did not hear that, sir.

Q. I say, it would depend upon the classification of the commodity; that is true, is it not?

A. Well, I think it would depend—I would say—upon the measure of the rate.

Q. The measure of the rate?

A. Yes.

Q. You think that the classification of cigarettes would be the same in any territory, do you?

A. Yes.

Q. In other words, cigarettes are cigarettes.

A. Oh, yes, of course; and the method of distributing cigarettes is to buy them in carload quantities from the manufacturing points, and send them to break-bulk centers throughout the United States, from which points the cigarettes are then distributed to the trade.

Q. Is it your thought that even though a commodity may [fol. 3814] generally take a class rate, under particular circumstances, such as you have described here, a commodity rate between the origin point and certain destination points may be justified.

A. Oh, undoubtedly that is a fact, yes, Mr. Commissioner. The commodity rate, in my judgment, represents the acme of refinement in ratemaking. There are just some things that you cannot do, in other words, with class rates. You have got to make commodity rates. If we had stuck to the class rate basis, we would not have had all of this consolidation of manufacture in the State of North Carolina. Now I think everybody knows that the production of cigarettes, smoking tobacco and plug tobacco is not just the simple process of taking a product of the farm and running it through the factory, and turning it out in finished form, in the form of the finished product. There are literally dozens of other commodities that also go into the process.

Mr. McConnaughy: Mr. Oliver, in the light of your experience in connection with the establishment of the tobacco plants in North Carolina, I dare say that you, as a practical railroad man, do not entirely agree with the economists who say that rates do not have anything to do with the location of industry. Is that correct?

A. Oh, I think that rates are a very substantial factor in the location of industry, Mr. McConnaughy. I believe [fol. 3815] that there are other considerations also, however, such as I have mentioned. I think that one of the first and foremost of those is the matter of the supply of labor. In our territory about 98 or 99 per cent of the people are native-born, and they lend themselves very readily and aptly

to industrial work. Many of them come from nearby farms. We have no labor problem as such at all. Our industry is not concentrated in just one or two spots. I think that was one of the great troubles that affected the textile industry, that it had all been concentrated around a few points, where there was water power; and consequently, as the result, they had built up a very serious labor problem. In our territory we have been able to keep industry scattered. Nearly every town has a cotton mill. Therefore we do not have that labor difficulty. Then I think also, gentlemen, that one of the greatest things we have, if not the greatest thing,—and it really is God's gift to us—is our climate.

Now, to get back again to the manufacture of tobacco: There are many commodities that enter into the manufacture of tobacco, and while I do not presume to be able to give you the entire list, I will mention at least a few of them to you. There are glycerine, rum, raw sugar, tin cans, and many other items which I am not able to enumerate just offhand. Now we have been able to make rates on these commodities into these manufacturing points, that have been [fol. 3816] satisfactory, and the manufacturers have prospered on those rates. Raw sugar comes from Cuba. Glycerine comes from the great soap-manufacturing points, such as Cincinnati and Jersey City. The rum of course comes from Pennsylvania, Ohio and Illinois.

Now we make the finest blankets in the United States, in the South. We make cotton blankets, all-wool blankets, and mixed cotton and wool blankets. Our woolen blanket manufacturers draw their raw materials from the far West, and from our own territory, where wool is plentiful. Our cotton blanket manufacturers, under normal conditions, get their cotton in China; they do not use our local cotton at all. That is also true of the manufacturers who make a mixed cotton and wool blanket. We also have a number of plants in the South making underwear, both cotton and rayon. In one of the exhibits which was filed here, either yesterday or the day before, I recall that the gentleman dealt with the production of underwear; but he very clearly overlooked the substantial production which we have in the State of Tennessee. I have already referred to the manufacture of shirts and collars in the South. We produce all sorts of cotton clothing. We also have woolen mills in the South. The overcoat that I wear was made out of woolen

cloth, woven in the South. We have many plants manufacturing hosiery in the South, both cotton, silk and rayon. [fol. 3817] We have been able to accomplish a great deal in the manufacture of chenilles, in the South. Now that is the item that some gentleman referred to here yesterday, where the employment in the State of Georgia is as great as it is in the State of New York. These chenilles consist of draperies, bedspreads and the like. Their production started in a small way in North Georgia. We have at the present time a number of plants producing them, and they are being shipped throughout the United States. Then we also make an oriental rug, a machine-made oriental rug, in the South, that is marketed all over the United States. It takes an expert to tell the difference between the oriental rug that we produce, and one that is produced in Persia.

It seems hardly necessary to refer to our forest products industry, but I want to refer to it very briefly for just a moment. It is one of our leading industries in the South. Whereas formerly we shipped a substantial majority of the products of our Southern mills to the North and East, approximately 50 per cent of the product of the Southern mills is at the present time used within the South. In addition to that, in connection with the manufacture of our furniture, we draw in large quantities of mahogany lumber from the Philippine Islands, from Central America, and in some instances from Africa. I am dealing now, of course, with normal conditions. The movement of mahogany [fol. 3818] lumber from the Philippine Islands has been temporarily suspended. We also manufacture ready-cut houses in the South. One of our principal industries is the manufacture of stoves, ranges, furnaces, and house-heating appliances. We have those plants in Alabama, Georgia and Tennessee.

[fol. 3819] We produce the major portion of the cast iron pressure pipe in the South. The State of Alabama alone has 18 plants producing soil pipe, which is the pipe that goes into building operation. In addition to the iron and steel industry in the Birmingham District, we now produce large quantities of tin plate in that district. I believe it has been stated that Alabama is the only place in the country where iron ore, coal and limestone are all found almost together.

Another great industry in the South is the aluminum industry. The largest unit of the Aluminum Company of

America is at Alcoa, Tennessee. Now, this industry doesn't use any product of the South except hydroelectric power and, by the way, I want to pay tribute to hydroelectric power in the South. Regardless of the fact that the Southern Railway System is a large handler of coal, we don't hesitate a moment to use the fact of our available hydroelectric power to induce industries to locate in the South.

We have recently located a large aluminum plant in North Alabama. This plant uses bauxite ore from Arkansas, from Southeast Alabama and from Surinam, in Dutch Guiana. This ore is all moved in its raw state to this plant.

Now, the ordinary process of producing aluminum is to stop the ore at some intermediate point to concentrate the ore, to reduce it to what is known as alumina; the alumina being then moved to the plant for manufacture into [fol. 3820] aluminum. But in this North Alabama plant, we bring in the raw ore and it is reduced to alumina at that plant.

At Alcoa, Tennessee, and Baden, North Carolina, the use of alumina is from plants in East St. Louis, Illinois, or Mobile, Alabama. Now, at East St. Louis, Arkansas bauxite is reduced to alumina and the alumina is then shipped to the plant where the aluminum is made. At Mobile, Alabama, the normal process is to bring in bauxite ore from Surinam and reduce it to alumina and follow the alumina to the plant where the aluminum is produced. Now, the aluminum at these three plants is produced into sheets and the sheets are shipped currently to the airplane plants throughout the country. We have great hope, after the war is over, of being able to put a plant in the South that will manufacture pots and pans and other similar commodities from the product of these primary plants.

Now, there is a lot more to the production of aluminum than the mere smelting by electric process of the alumina. It takes a lot of chemicals and other things to go into the manufacture of the finished product. For example, these plants use large quantities of petroleum coke, they use large quantities of soda ash and other chemicals, one of which comes from Greenland, the chemical known as cryolite, without which I am told the production of aluminum from bauxite ore would be impossible. So that, on analysis, it [fol. 3821] will be seen that the location of these plants is

just not a happenstance. There are many, many considerations that go into the final picture.

By Mr. Northcutt:

Q. Mr. Oliver, the plant at Alcoa has been in operation a great many years, has it not?

A. Oh, yes, it has been in operation, certainly, since I have had anything to do with the traffic department of the Southern Railway; 25 years, at least. However, I should say that its capacity has been constantly increasing so that the statement was made not long ago that it was the largest individual unit of the Aluminum Company of America. Now, the plant at Baden, North Carolina, was really started by a French syndicate which got into trouble during the last war and was bought by the Aluminum Company. That plant makes aluminum, pig and ingot, which goes to plants in the North and the East for further fabrication. But the plants at Alcoa and at Lister Hill in Alabama produce the finished aluminum.

Incidentally the plant at Alcoa produced large quantities of powdered aluminum which went into the manufacture of paint. That production has been stopped by the war. We have plants in the South producing ferro-manganese and ferro-silica.

By Mr. Dixon:

Q. Mr. Oliver, before you get off aluminum, how long has the plant at Lister Hill been in operation?

A. Well, it was constructed, I think its construction was begun in 1939 and completed about the middle of 1940. I am [fol. 3822] not exactly sure as to that date, but it was financed by the Reconstruction Finance Corporation, not as a Government plant but through a mortgage executed by its owners, and it is a plant that we are going to have with us, I think, from now on; and I might say that its capacity has been increased two or three times since it was originally conceived.

Q. Now, have you had any trouble getting satisfactory rates established to and from points in Official Territory for that plant?

A. I don't think so. I think we have worked out rates that are reasonably satisfactory to that plant. The great trouble we had in the beginning was making the rate on the

raw material that went into that plant, making the rate on the bauxite ore. That seemed to be the controlling factor. I don't think there is any pattern you can lay down for all of these plants, but my observation is that the rate on inbound raw material is always of prime consideration. We negotiated, I personally negotiated with the promoters of that plant and we finally agreed upon a rate on the imported bauxite ore which I believe, which I conscientiously believe was the factor that decided its location.

Of course, we had other things to consider. Aluminum requires large quantities of electricity. We had hydroelectric power in North Alabama. But the thing against which they laid the most store was the rate on the inbound [fol. 3823] bauxite ore, and I may add that the rates on the manufactured product followed. They were all worked out after the plant was in operation—after the plant was completed and in operation.

Q. And as far as you know, there was no trouble about the rates on sheet aluminum from Lister Hill to Official Territory.

A. No, I have heard absolutely no complaint about those rates, and as far as I know, they are satisfactory.

By Mr. Norman:

Q. Would you mind telling what is the basis of them?

A. Well, we had, of course, a pattern in the rates from Alcoa. Those rates had been negotiated over a period of a good many years; and the rates from Lister Hill were tied in relatively to the rates from Alcoa.

Q. They are not the class rates, are they?

A. Oh, no, they are not class rates.

Chairman Aitchison: Time is going on pretty fast. How near are you through?

Mr. Dixon: About half way, Mr. Chairman.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

By Mr. Dixon:

Q. Mr. Oliver, the Chairman says we have used about all of your allotted time but he is going to let you proceed for a while longer.

The Witness: I certainly hope you will, Mr. Chairman. I am almost through with this general statement and I will [fol. 3824] push it along as much as I possibly can.

Now, the next large industry, and it is of somewhat recent development in the South, is the paper, pulp, pulp-board and plastics industry. I want to deal first with the paper and pulp section of that general subject.

The first paper mill located on the Southern Railway in Western North Carolina was purely and simply an adjunct of a mill located here in the Miami Valley of Ohio. This mill here, according to my information, was using imported pulp and it conceived the idea that it could manufacture pulp in Western North Carolina and ship it up here for further manufacture. Of course, we encouraged that development in every way possible, and as a result, we now not only manufacture pulp in Western North Carolina, but we manufacture all kinds of high-grade paper; which goes to show that we have to reach the ultimate in this manufacture by stages. You can't simply do it all at one time.

Now, for many years we on the Southern Railway tried to encourage the development of the Kraft paper industry in the South. We actually went to the point of setting up a demonstration forest on our line, showing that this cut-over timber land could be reforested and the second-growth pine used in the manufacture of pulp which, in turn, could be used in the manufacture of all kinds of paper. Now, that industry has been developed in a large way in our ter- [fol. 3825] ritory. A number of plants have been established and we would have more today but for the fact that the war in Europe broke out in 1939, since which time development of that sort has practically stopped.

Now, this pulp that is being manufactured from second-growth pine, largely as the result of the discoveries and research work of Dr. Herty of Savannah, Georgia, is now used in the manufacture of the finest paper. It is used in the manufacture of newsprint paper. We have been trying very hard to locate such a plant in Southeastern Territory, and I believe confidently that we will ultimately be able to do that. One plant in the Southeast is producing pulp out of second-growth pine that is being used in the rayon industry in competition with pulp from Canada, from the Pacific Northwest and from Scandanavia.

Now, there is a lot more to these plants than simply the use of a raw material which is found in our territory. Of

course, the wood is the principal material. There is no question about that. But each and every one of these plants uses large quantities of chemicals that come from the Southwest and from points in Official Territory; and as far as one of them is concerned, where they are manufacturing a particularly high-grade paper, we have actually brought the spruce wood from Nova Scotia, and just recently we established a rate on spruce wood from out in [fol. 3826] Colorado to Western North Carolina to keep that plant going. I think a man who didn't know the details of all those things would think that all that plant had to do was to go out and cut down the trees in the neighborhood and make pulp, and the bald fact about it is that he has got to go as far as Colorado for some of his spruce wood.

This is sort of a Bob Ripley statement, but we manufacture large quantities of saddlery and harness in the South. We have got one plant on the Southern Railway that sold a national distributor in 1939 a million and a half dollars worth of those commodities.

We manufacture machinery of all kinds. We never have, though, been able to manufacture textile machinery in the South, and that is one of the riddles for which nobody has yet been able to find the answer. We were able to start a small textile machinery plant at Spartanburg, South Carolina. After rather desultory operations, it folded up and its buildings are now being occupied by a New England manufacturer who ships the machinery down there in carload quantities and distributes it out as it is needed to the mill, very largely in replacements.

By Com. Splawn:

Q. Does the manufacture of textile machinery require highly skilled labor?

A. Why, it certainly does, Mr. Commissioner. As you probably know, a textile machine is a very delicate instru- [fol. 3827] ment. And I have always had the idea that it was the labor question that prevented the removal of some of those plants to the South. I think, though, there are other considerations to be taken in view. I think the financial consideration is an important one. The manufacture of textile machinery has gone on a pace in New England for the last century. As you probably know, England

thought that she had a death grip on the textile industry by controlling the machinery, but an Englishman came over to this country 100 years ago or more and was able to set up one of these machines from memory and he settled in New England and the industry has been there ever since and it just cannot be moved.

Now, the way textile mills operate, they all have to buy a lot of machinery. The Southern Railway alone handles four or five thousand carloads of it a year from New England to Southeastern Carolinas, and it is just impossible to produce it in the Southeast. I don't believe that anybody has found the answer and I don't believe the answer can be found; and to make the puzzle a little more puzzling, I want to add that they actually move pig iron from the Birmingham district to New England that is used in the manufacture of textile machinery, which, in turn, is shipped back into the Southeastern Carolinas.

By Mr. McCollester:

Q. Well, certainly the fact that the freight rates on textile machinery from the South to the North may be higher [fol. 3828] than the freight rates within the North is no reason why the manufacture of textile machinery in the South for sale to Southern mills hasn't developed?

A. No, no. I might add right there that the Southern mills are now consuming 85 per cent of all of the raw cotton that is consumed in the United States. So that there is a great market there for textile machinery, but it is just one of those things that can't be changed.

By Com. Splawn:

Q. Don't you think you have to sell your climate to a New England slater to get him down there?

A. Well, I think we would have to do something like that, Mr. Commissioner. Certainly this poor fellow that came down to Spartanburg—and, by the way, he was from New England—made a dismal failure of the effort right there in the heart of the textile industry. There are more textile spindles in South Carolina than in any other Southern state. He had just to the north of him North Carolina which, I believe, ranks second or third, and Georgia just to the south of him. I think Georgia is second and North Carolina third.

Now, I stated a minute ago that we also have an agricultural development department on the Southern Railway System. We spent a lot of money in our effort to diversify agriculture in our territory. That effort continues, although the Federal Government has now occupied that field so thoroughly that it almost seems useless for the railroad [fol. 3829] to try to do much with it. We do, however, continue to do what we can, and particularly in connection with the growing of more and better livestock.

We have done a lot of missionary work in the dairying industry. We have got a man at the head of that work who is an Englishman that we hired several years ago. He is a graduate of some famous English school, and he has been pretty successful in encouraging farmers around on our line to grow more and better cattle and produce more and more milk, our idea being to get these national industries to set up condenseries and the like. I can't think of anything that does a community as much good as a condensery. We were able to locate one in East Tennessee and I checked into that situation not long ago and that one plant is turning loose in cash money to the farmers of two or three counties surrounding it between a half million dollars and a million dollars annually for milk, thus producing an income that nobody dreamed of before. We have been successful in getting a small plant just recently in North Carolina and another one in South Carolina.

Now, on a proposition of our shipping out a lot of raw materials and being a colonial dependency of the North and East. I resent that statement with every fibre of my being. I can't understand the necessity for making a statement of that kind when it just is not true. It is a [fol. 3830] fact, of course, that New England and Pennsylvania and New York have invested large sums in the South. Some of that money has gone into plants producing raw materials to take the place of raw materials exhausted in the North and East. But in many instances we are producing raw materials in the South that displace imported commodities, imported materials. I have in mind the clay industry in the South. The Southern Railway originates a lot of clay and it goes to the North and East in large quantities, all in competition with imported clays. Now, I don't think we ought to stifle the production of a raw material like that until we can get some fellow to come along and make some cups and saucers there. If we did, we

never would get anywhere at all in our effort to upbuild the South.

I was just about to overlook a very important thing in connection with the early part of my testimony, Mr. Commissioner, and if you will give me a few more moments on that, I believe I will be about finished.

The policy of the Southern Railway System—and I may add that this has been the policy of the southern rails generally—is to make rates on the product of southern industry into the North and East where such rates are necessary on substantially the level of rates existing in those territories. Conversely, we have freely said to the industry of the North and East, that you can come into our [fol. 3831] territory on our level of freight rates. We seek no advantage for our industry within our own territory; just as we insist upon the right to go into the North and East on the level of rates in those territories where that is necessary. Now, it isn't necessary in all instances because sometimes we are producing and shipping a commodity up there that doesn't come in competition with anything that is produced in those territories.

Now, the first test of this policy that we had was the Bear Brand Hosiery case which came along about 1926. The Bear Brand Hosiery Company is located at Kankakee, Illinois. It complained about its rates into the South because such rates were higher than the rates from the South into the Middle West. The Interstate Commerce Commission found discrimination and we proceeded, in compliance with its order, to cancel all of our commodity rates on hosiery from the South to points in Official Territory. However, we sought a suspension with the shippers of those rates. They were suspended and the Interstate Commerce Commission, on reconsideration, gave us substantially what we ask for, which was 75 per cent of the first class northbound, that being pretty close to the level of rates applying within the North and East. Now, that decision was complied with shortly after the rates became effective under 13494, January 15, 1928.

The next step in the development, which laid the foundation, I think, for some of this controversy that has been [fol. 3832] raging here for nearly ten years, was the fact that we had to begin early in January, 1930, to treating all of our commodity rates from, to and between points in the South under the Fourth Section. On January 1, 1930, the

Commission issued a Fourth Section order denying our general application of 1910 on over 75 commodity groups. And then on January 17, 1931, relief was denied on cotton factory products, and I think right there was laid the egg that has finally hatched into this investigation.

Chairman Aitchison: Well, you have had a lot of time to hatch it. (Laughter.)

The Witness: May I just finish this, sir, and then I will be through.

In complying with this Fourth Section denial of relief, we ran into this situation: The Northern and Eastern lines took the position that cotton factory products were strictly a class-rated traffic and that the classification basis should go. Now, the Southern Railway had a 50 per cent interest in the Monon Railroad, which operates from Louisville, Kentucky, to Chicago. In connection with the Monon on the left, so to speak, and the coast-wide steamship lines on the right, we made rates on a competitive basis, by which I mean we made rates with relation to the destination level that applied from New England to Chicago, and then in connection with the coast-wise steamship lines to North At- [fol. 3833] lantic ports, all the way to Boston, Massachusetts. But to the intervening territory points in Indiana, east of the Monon, Ohio, Pennsylvania, New York, we had to cancel the commodity rates which we had then in effect. Now, we joined the shippers in the South, we joined the industry in the South in seeking a suspension of those rates, and they were bitterly fought over.

We had a peculiar intraterritorial situation in that the rates from mills in Georgia and Alabama to Chicago were lower than from mills in the Carolinas and, in turn, were lower than the rates from the mills in New England. As a matter of fact, the rates from mills in Georgia and Alabama had somewhat previously resulted in a reduction in the rates from New England to Chicago. There was formerly a parity in these rates. That parity was disturbed by the percentage increases that had been made effective in Trunk Line and C. F. A. Territory; so that we actually had rates from Georgia and Alabama to Chicago that were lower than from New England and lower than from the Carolinas.

Now, in the Fourth Section Revision, it was perfectly obvious to everyone that that discrimination could not continue. We complied with the Commission's decision, and I

may say that we did not take full advantage of the Commission's decision by any means, by increasing the rate from Alabama and Georgia to Chicago Territory to be the same as the rate from the Carolinas and, in turn, the same as the [fol. 3834] rate from New England, so that we now have a common rate on textiles from New England, from the Carolinas and from the Southeast into Chicago Territory.

This increase, though, from Alabama and Georgia mills was bitterly resisted. About the time it was pending, the Interstate Commerce Commission had under consideration the consolidation of railroads. I think those hearings began early in 1932, and we fought and fought hard to retain control of the Mobile Railroad, in which we owned a 50 per cent interest, the L. & N. Railroad owning the other 50 per cent. I personally testified in that proceeding. And Mr. Spottswood makes reference to my testimony, and I have no apology to make for that testimony. We had our back to the wall and we were fighting and we were not pulling any punches. In any event, the Interstate Commerce Commission decided the allocation of the Mono in accordance with our position, and meanwhile its final decision in the textile case was handed down and made effective, I think, in 1937, some several years later.

Now, about this time, in the early part of 1937, the agitation started through the so-called Southern Governors Conference for a revision in the rates on certain commodities. I may add that all of these commodities that we were revising at that time, under the Fourth Section, the revision was accomplished during the depth of the depression; and it [fol. 3835] is my personal opinion that the level of rates finally made effective were about the minimum in every case. We were not able to, in my judgment, adequately protect our revenues because of the commercial condition——

By Chairman Aitchison:

Q. What rates are you talking about?

A. The rates on which the Commission had denied Fourth Section relief. You see, we had to revise——

Q. You mean on textiles or everything?

A. On textiles—well, of course, we did fairly well on textiles, but on everything. I mean, we did fairly well on textiles in that we were able to make effective a competitive adjustment for which we were striving.

Q. Well, you had 27 years to get those things lined up yourself?

A. Well, that is true, you know, Mr. Commissioner, and I don't think we could possibly have taken a worse time to have undertaken the job than we did, because of business conditions then obtaining.

Q. You were forced to do it then, weren't you?

A. That is true, that is true. Now, this Southern Governors Conference came into being somewhat coincidentally with all of these revisions, and a committee of us went down to Montgomery to confer with Governor Bibb Graves of Alabama, who was the leading spirit in that movement. Now, those conferences were held in the early part of 1937. [fol. 3836] Right at that time we were revising a lot of these rates. We said to Governor Graves—and I was a member of the committee, we had two conferences with him, three conferences with him—we said to Governor Graves we felt positive the Interstate Commerce Commission had the power to make rates that would move the traffic from Southern industries to this populous Northern and Eastern Territory; but our trouble had been in getting adequate commercial testimony to support the policy that we were advocating. I remember saying to him, "We can furnish all the rate testimony that is needed but we have got to have executives of these industries come forward and say what their necessities are." Governor Graves said, all right, he would handle the matter in that way.

Now, following those conferences, the Southern Governors complaint was filed. I think there is no doubt but what Governor Graves beat the tom-toms, and he got all the complainants into his petition. As a matter of fact, he got some in there who insisted on being removed from his petition. But in any event, he started out with——

By Chairman Aitchison:

Q. I really don't see what that has to do with this proceeding, Mr. Oliver. That case has been heard and has been decided.

A. I think it has a very important bearing on just what I am going to say, if you will just bear with me a minute, sir.

Chairman Aitchison: Your time has run from 45 minutes [fol. 3837] now to about an hour and a quarter.

The Witness: Well, Mr. Commissioner, I think this is so important, if you will let me go ahead with this. I will be through in just a minute. I am not through but I will stop in just a few minutes.

Now, this complaint, when it was filed, included some 60 commodities and concluded by stating that, "The foregoing list is not complete or finished, but it illustrates the type of commodities which promise to open the door to industrial progress in the South." Now, that is a statement from the complaint itself, but by amendment or abandonment the number of commodities was reduced to 17, and, as I said a minute ago, a number of people whose commodities were included in that original complaint insisted that they be taken out. In any event, the Commission decided the case on November 22, 1939, and found the rates on ten commodities to be unreasonable and/or prejudicial. On eight commodities the rates were found to be both unreasonable and unduly prejudicial. These commodities were stoves, stone, marble and granite, cast iron pipe fittings, less than carload, iron body valves, fire hydrants, brass pipe fittings, brass cocks and valves and soapstone and tallow.

I don't think the policy of the Southern lines in the matter of rates on the product of Southern industries was ever more vindicated than it was by the Commission's decision in [fol. 3838] the Southern Governors case; and furthermore, that decision laid the pattern for future adjustments and it also changed the status of the Monon, so far as the Southern Railway is concerned. I think the Monon now needs the Southern Railway lots more than the Southern Railway needs the Monon, because the Commission has said something that I thought it would say, that it has the power to fix these rates on proper showing, and since that decision, we have had practically no trouble. I don't think we have had a single complaint involving a manufactured commodity from the South into Official Territory.

Now, I did have——

By Mr. Dixon:

Q. Mr. Oliver, I have a few questions to ask, please, and I think perhaps you can answer them categorically. The first one is, in your judgment, does the present rate structure intra- and interterritorially restrict the movement of the products of Southern industry?

A. Well, it certainly does not, in my judgment, Mr. Dixon.

Q. In your judgment, do your class rates, as such, move any substantial traffic to, from or between points in Southern Territory?

A. Yes, they do. They move a very substantial traffic southbound into Southern Territory. They move a substantial traffic intraterritorially and they move some traffic northbound.

Q. In your judgment, could the Southern Lines, under normal conditions, stand any substantial reductions in their revenues?

[fol. 3839] A. Under anything like normal conditions, the lines in Southern Territory cannot stand any substantial reductions in revenue, through any so-called unifying process of rates on high-grade traffic. It is likewise impossible to now estimate the extent to which the rates on low-grade traffic would have to be increased to make up such loss. No one can now predict what the situation will be after the war is over, but of three things we can be reasonably certain: First, high taxes; second, maintenance of present wage scales; and, third, intensified competition.

Q. Mr. Oliver, there is just one other question: The Southern Railway System operates in Official Territory also; does it not?

A. It does. We have lines in Southern Illinois, in Southern Indiana, in Northern Virginia, that operate in Official Territory. Our line between Washington and Lynchburg, Virginia, is in Official Territory. Our Harrisonburg branch is in Official Territory; and then our lines in Indiana and Illinois are all in Official Territory.

Q. Does the Official Territory basis of rates apply on those lines?

A. It does.

Q. Compare the industrial development on those lines in Official Territory with the industrial development on Southern Railway's lines in Southern Territory.

[fol. 3840] A. Well, I will do that, Mr. Dixon, and very much to my regret I must say that the industrial development on those lines having the benefit of so-called Official Territory rates has been much less than it has been on our lines further South which operate on the Southern basis of freight rates. I have really felt badly about the industrial situation on our lines in Southern Indiana and Illinois. We have done everything we possibly could to en-

courage some kind of industrial development on those lines. We have actually lost industries. We lost a large catsup plant at Princeton, Indiana. We have lost a strawboard plant at Rockport, Indiana. As a matter of fact, the traffic on our Rockport branch got so low that we filed a petition with the Commission for abandonment. We held that petition in abeyance or perhaps withdrew it because the people out there were making every possible effort with us to create some traffic that would justify the operation of that line.

Our industrial situation in Illinois is not as good as it was when I was located at Louisville, Kentucky, back in 1912 and 1914; and for the period during which I have been vice president in charge of traffic, we haven't been able to locate any worthwhile industry at all on our line between Washington and Lynchburg. Now, one would think that that line, above all others in the Southern Railway System, would be most favored from an industrial standpoint, and [fol. 3841] yet the facts are that we have been able to do practically nothing in that section.

Q. That is the double-track main line?

A. That is the double-track main line, which is one of the best railroads in the United States. One our Harrisonburg branch there has been a rayon plant located at Front Royal, Virginia, and the main consideration there was the presence of water in large quantities. Of course, the plant draws in its raw materials from different parts of the country. Its wood, I believe, woodpulp, comes from the Pacific Coast. I won't be sure about that, but some of it may come from this plant in the South that is now making pulp out of which rayon can be produced.

There is just one other thing, Mr. Dixon, I would like to refer to, and that is the testimony of Mr. Eric Morrell, managing editor of the "Manufacturers Record." I came here with the idea of filing a lot of excerpts from the Annual Blue Book, but I am not going to do that because Dr. Duncan covered all of that field. Now, we have always thought the "Manufacturers Record" was a partner in this effort to locate industry in the South, so when Mr. Morrell's testimony was brought to my attention, it shocked me and it shocked me thoroughly, so I sent the head of our industrial department over to Baltimore to see him.

It is only 40 miles from Baltimore to Washington and [fol. 3842] therefore it is only 40 miles from Mr. Morrell's

office to my office, but anyway, not having heard from him about any of these things that he testified to in Indianapolis, I asked the Assistant Vice President Wirt to go over to Baltimore to see him and to try and get me some facts and figures and dates and details on these industries that had been run away from the South on account of freight ratings.

Well, Mr. Wirt came back and reported that Mr. Morrell couldn't cite to him a single industry. He did make two references to industries proposing to establish plants in the South but which were deterred, it was alleged, from doing so on account of freight rates. One was a manufacturer of machinery used by the dairy industry, having two plants in different points in New York State, the output of these plants being sold to the dairy industry in that state. The C.I.O. got control of one of these plants and the owner threatened to close this plant and move South. Now, he got in touch with Mr. Morrell who suggested one area in Southern Tennessee and the other somewhere in Southwest Virginia and Kentucky.

Now, he had another instance of a proposed plant to develop bentonitic clay in Obion County, Tennessee, the extreme north county in the State and traversed by the Illinois Central Railroad.

I think everybody knows that the South is not a dairying [fol. 3843] country and if there is any place in the United States that I wouldn't pick out to locate a plant to manufacture dairy machinery, it would be in the South, because the large markets for that kind of machinery are in the East and in the Northwest. However, we hope some of these days to have enough dairying industry in the South to encourage a machinery plant to locate there. I must confess some ignorance with respect to the rates on clay from points in Obion County, Tennessee. I do recall that we made rates from that section to the Pacific Coast to accommodate shipments of clay.

But those are the only two instances that Mr. Morrell could give, and he said that the only plants he knew about in which the freight rate feature entered into the picture were relatively small finishing product plants, and that he had no knowledge of any plant engaged in primary manufacturing having been lost to the South by reason of the so-called freight rate situation; but I repeat that it is only 40 miles from his office to mine, and if those situations were

serious, it does look as if he would have referred them to me, something which he most positively did not do.

Q. Do you have anything further, Mr. Oliver?

A. Well, I did want to comment on Governor Cooper's testimony a moment. I think I have answered a good deal of it, though, as I have gone along. We have certainly made [fol. 3844] rates that would move coal from the South to points in the North and East. The Southern Railway has gone into those rates when it would have been very much to our advantage if we could move that coal in some other direction, because the rates up in this section are very low, relatively and per se; but nonetheless, particularly during the depression, when everybody was striving to get every piece of business in sight, the operators over there insisted that in some instances where we didn't have such rates, that we provide them, thereby giving employment to their people and giving them some income. We responded to their request.

He says the South furnishes one-half of the nation's marble. Nobody knows that better than we do, and we have certainly gone the limit in making rates on marble.

Q. That is, in the Southern Governors case?

A. Yes, sir, but even before that. We had made rates on marble to our border territory on the Official Territory level, and the freight rates hadn't anything to do with it. Our East Tennessee marble producers, just to give one illustration——

Chairman Aitchison: I think you had better not give too many illustrations. Just make your general statement, until you are asked for illustrations. Otherwise, you are going to be crowding your colleagues out.

The Witness: I will quit right away. I just wanted to [fol. 3845] add that the Mellon Art Gallery in Washington, which is, I think, the most beautiful building in the United States, is built out of East Tennessee marble.

Now, there is a good deal more I could say, Mr. Chairman, but I suppose I will have to stop. I listened to Mr. Bell yesterday for seven hours and I wish I had just about half his time, but I will just have to call it a day.

Chairman Aitchison: Well, I think we can arrange to let you have as much time as Mr. Bell had, provided you want to represent your interests alone.

The Witness: No, I don't want to do that. I have got colleagues here who have got just as good a story as I have to present to you. Unless Mr. Dixon has some other question, we will——

Chairman Aitchison: I have one or two, prompted in part by the statement you made to Mr. Dixon.

By Chairman Aitchison:

Q. Do you have available any data or other information showing as to your railroad the relative importance, either measured by tonnage or revenue, of traffic which moves on class rates, to that which moves on commodity rates?

A. We have no recent data on that point, Mr. Chairman. I don't know of any study of that kind, subsequent to the class rate investigation. Mr. Crane is going to follow me on the witness stand and he has got something on that [fol. 3846] point, Mr. Chairman, but I don't think we have made a study of the traffic moving on class versus commodity rates since the Class Rate Investigation. We may have had some sporadic studies on different parts of the railroad. If we have, Mr. Crane will certainly have the information here for you.

Q. Then when Mr. Crane comes on, he can answer these questions if you can't?

A. Yes.

Q. Second, the relative importance, either measured by tonnage or revenue, of that class rate traffic which you do have, which moves in carloads, in less than carloads, in any quantity or on forwarder or on all commodity rates or on other rates?

A. I am sorry, we have no data that would show the movement on class, commodity and any-quantity rates in carload and less than carload quantities. We do have statistics showing the movement on all commodity rates. That is filed currently, I believe, with the Interstate Commerce Commission. We have some of that traffic, not an awful lot, but in any event we file reports with the Commission covering it.

Q. Next, the relative extent to which the classification proper is used in connection with the regular class rates and percentages.

A. Well, that is another difficult question and I don't think I have the answer to it, sir.

[fol. 3847] Q. What is your opinion, if you have one, as to the proportion, either by tonnage or revenue, which the movement of the traffic on normal class rates is of the total traffic on your line?

A. What was that last?

Q. Of the total traffic on your line. Do you want the whole question read?

A. Well, the only way you could get that would be by a study of the traffic, and that would be a very expensive and laborious proposition.

Q. The question is, what is your opinion, if you have any? If you have no opinion, say so.

A. Well, I expressed an opinion a while ago that we do have a substantial southbound movement of traffic on our regular class rates; and we made a test in North Carolina some while back which developed that we had a substantial movement of traffic within that state on the class rates, and I think conditions in North Carolina are not substantially different from what they are in South Carolina and Georgia, so that I conclude from that test that we have a substantial movement of class rated traffic intraterritorially. Now, interterritorially northbound, my opinion, for the movement on class rates, as such, is substantially less in relative volume. Of course, as we have come along with all of these Fourth Section revisions, we have utilized, for Fourth [fol. 3848] Section reasons and for convenient methods of publication, column rates, some of which have been taken into the classification and some of which have not been. Some of them continue to be in the exceptions sheets, the exceptions sheets having interterritorial application. But it would take an auditor's test to give you an accurate answer to those questions. I do believe, though, that my opinion, based on a pretty close acquaintanceship with the movement of our traffic, is substantially correct.

Q. Can you be more specific than to use the words "substantial" and "not so substantial"?

A. Well, yes, according to my opinion, the answer I have given you is correct. It isn't fortified by a statistical statement, though, Mr. Chairman.

Q. Well, I am asking your best opinion, if you have one.

A. I have given you my best opinion, sir.

Q. And when you use the words "substantial" and "not so substantial," that is the best you can do?

A. Perhaps that was a slip of the tongue.

Q. Is that right?

A. I said perhaps that was a slip of the tongue, using the word "substantial". I have given you my best opinion, based on my knowledge of the Southern Railway System.

Q. I am anxious to understand you. I think these are important. If you now withdraw the word "substantial", [fol. 3849] what impression do you care to have me take away as to what the proportion is, either by tonnage or revenue, that the traffic which is moving on normal class rates bears to the total traffic?

A. Well, of course, that is a hard question. I don't know how to answer that question except through the expression of opinion.

Q. That is what I have asked. What is your opinion?

A. Well, my opinion is, and I think the opinion is based on experience, there is a substantial movement of class-rated traffic southbound.

Q. Then you can't find a better words than to say "substantial"?

A. Well, I couldn't tell you what percentage it is. I wouldn't undertake to do that. I know it is—we operate a tremendous number of merchandise cars from Chicago and the eastern consuming points into the South. Those cars move in great number and they are full of merchandise traffic, practically all of which moves on class rates. And that is true, as I said a while ago, of a lot of our traffic intraterritorially. But northbound I think the situation is different.

Q. How about the situation with respect to the other rate territories which have been mentioned?

A. The other rate territories?

Q. Yes, Southwest, Western Trunk Line.

[fol. 3850] A. Well, I wouldn't presume to express an opinion about Western Trunk Line.

Q. I am talking about how much movement you have between the Southwest on the one hand and the South on the other, and also between Western Trunk Line Territory and the South.

A. Most of our traffic moving from the South to points in Western Trunk Line Territory moves on commodity rates. We never had any class rates between the South and Western Trunk Line Territory prior to just a little

while ago. We publish such rates in response to the Commission's decision.

Q. I am only asking for information. I just want to know the facts.

A. I am trying to give them to you, too, sir, to the best of my knowledge and belief.

Q. Yet it is apparent, with respect to the Southwest, that the traffic is still not substantial?

A. Well, most of our traffic moving from the Southeast and the Carolinas to the Southwest moves on either commodity rates or column rates; that is, column rates being made a percentage of the first class. Now, we have got—our big movements consist of manufactured tobacco, furniture, textiles, and all of those rates have been adjusted with an eye directed to the movement of those classes of traffic.

Q. But not upon your class rate basis, is that right?

A. Well, perhaps not by a percentage of the class rates. [fol. 3851] Those rates have been affected by——

Q. I am trying to find out what proportion of your traffic moves on the normal class rate basis. I am not interested at the moment in how much may move on percentage, a percentage of first class, unless that percentage is a normal class percentage.

A. Well, there is a very substantial part of it moving on the class rates and the percentage of class rates.

Q. To the Southwest?

A. To the Southwest and from the Eastern Trunk Line and C. F. A. Territory into the South. Practically everything we have got is moving on some percentage of first class.

Q. That isn't what I asked. I don't want you to answer me with respect to that. I want you to tell me about the traffic which moves on the normal prescribed percentages of first class, assigned to the different classes; not that which moves on column rates which differ from the normal classification rating on a percentage basis.

A. And there is a great deal of such traffic, Mr. Commissioner.

Q. I am asking you now about the Southwest and Western Trunk Line Territory.

A. We have very little movement of traffic from the Western Trunk Line Territory into the Southeast, except

grain, grain products and commodities of that kind. There [fol. 3852] is no class rate traffic that I know of moving from Western Trunk Line Territory into our territory.

Q. How about in the reverse direction?

A. Well, we have a lot of furniture, textiles, tobacco, manufactured tobacco, miscellaneous commodities moving out there on the class rates, or rates made a percentage of first class. Now, whether that be the——

Q. Can you distinguish between these? I don't care about anything except the normal percentages.

A. Now, I find myself in difficulty in giving you a satisfactory answer, apparently, on that, because I think, in order to give you such an answer, it would require a minute investigation.

Q. Which you have not made?

A. Which I have not made.

Q. That is sufficient.

A. But I am undertaking to give you my considered judgment with respect to it. Now, just—I recall at the moment one very substantial movement of class-rated traffic from Eastern Trunk Line Territory into the South, and that is textile machinery, all of which moves on sixth class. And, as I said in my testimony a while ago, the Southern Railway System alone handles four or five or six thousand carloads of that stuff a year.

Q. I have not asked you, Mr. Oliver, with respect to [fol. 3853] any particular commodity. I am purposely endeavoring to confine this to a broad picture of your whole traffic, and you have given the best answer you can with respect to it?

A. I think I have, sir. In the absence of a traffic study, which would be very expensive and very laborious, under existing conditions, with our short manpower, I don't see how I could give you a better answer.

Chairman Aitchison: I only want the best you can give. Cross-examine.

Cross-examination.

By Mr. Norman:

Q. Mr. Oliver, you have referred to the manufacture of various articles in the South, such as paper and textiles and furniture, and said that there is produced in the South

some of the finest products in those lines. Now, while that is true, isn't it also true that a majority of the products in the South is of the lower grades and that the majority of the higher grades is produced in the North and East?

A. Are you talking about textiles?

Q. Well, I said paper, textiles and furniture. Put them all together.

A. Well, if you had a weighted average, I suppose, dealing with paper, for example, the pulp and the wallboard and the wrapping paper and paper bags would outweigh the wrapping paper and the calendar papers, yes, but I [fol. 3854] think that would be true in any territory. I think that would be true in New England or in New York State.

Q. But what I asked you was, isn't it true that the majority of the lower grade—the majority of production in the South is the lower grade, while there is some high grade?

A. Yes.

Q. And the majority of the high grade production is in the North?

A. Yes. The majority of the people you are trying to reach use the lower grade, too; not everybody uses the high grade.

Q. Well, for instance, in the textiles, isn't there a large movement of textiles from the South for further manufacture?

A. That is true and that gives me the opportunity of saying something that I overlooked on my direct examination. When the Interstate Commerce Commission, in the general textile case, made the rates on unfinished cotton piece goods 90 per cent of the finished—of the rates on the finished cotton piece goods—I was shocked and I thought we were going to have almost a revolution in our territory, because we were trying to build up the dyeing and the bleaching and the finishing industry. Well, anyway, we went to work and put the rates in effect. Very much to my surprise, shortly after that, we had a request from the National Converters Association, I think that is the name of the organization in New York City, to authorize car- [fol. 3855] load rates on unfinished cotton goods from the South to bleaching points in New England Territory. I was asked to come to New York and attend a conference regarding that request, and I did so with—I went with a

good deal of misgiving, and when I got in the conference, it wasn't long before I told them that that was absolutely out of the question, that we would never agree to that. Very much to my surprise, when I got back home, I got all kinds of pressure from the Southern mills themselves to put in these rates, and we did put in those rates. They moved the traffic up there in carload quantities and everybody seemed to be satisfied.

[fol. 3856] Q. Now, take aluminum. You talked about that at great length. Aluminum is shipped out of the South in sheets, is it not?

A. That is true, sheets, and some of it is shipped in pigs and some in ingots.

Q. But it is not manufactured in the South into the various articles such as pots and pans that you referred to?

A. No, but when the war is over, if we do not have such a plant as that in the South, I am going to be greatly disappointed.

Mr. Norman: Now, there is just one other question I want to interrogate you about, and that is the matter of securing interterritorial rates from the South to the North and East on the Official Territory basis.

By Mr. Norman:

Q. You referred to the statement which you had made in the Consolidation Case, the Railroad Consolidation Case, which was to the effect that the Northern carriers were building a wall against the movement of the traffic from the South. Now, you further said that you had not had any trouble, as I understood you, since the decision in the Southern Governors' Case. Do you mean by that to say that the Official carriers will now join you in rates from the South made on the Official Territory basis?

A. They will do it if we can convince them it is the proper basis. We have negotiated some of the most important [fol. 3857] adjustments of rates on Southern commodities since the Southern Governors' case decision, that we have ever had to deal with; for example, the rates on paper and paper articles, wrapping paper and paper bags.

Q. What basis did you negotiate on?

A. 110 per cent of the Northern level, but I would like for you to understand that that was the basis agreed upon by the Southern industry.

Q. Yes.

A. As a matter of fact, it was suggested by the Southern industry. That was one case, Mr. Norman.

Q. Don't you think they would rather have had 100 per cent?

A. Oh, Lord, yes. There is no question about that. There is no question about that, but they found they did not need 100 per cent, and they were honest enough to come to us and tell us, "Now, you go ahead and negotiate these rates here on the 110 per cent basis, and we will call it a day." We did it, and the traffic is moving freely under that basis, and as I said, apparently everybody is satisfied. I have heard no complaint.

Q. You have established in a number of instances, have you not, rates to the border points, Ohio River gateways, on the Official Territory basis and had to stop there, is that not so?

A. We have established rates to Official Territory, or to [fol. 3858] the border gateways on a number of commodities; you are right about that, but the only one I know of at the moment that we have not proceeded further on is the adjustment of rates on glass bottles from Chattanooga to points in the North, and this gives me an opportunity to comment on that situation: we had a peculiar situation. We tried to be of help to the Chattanooga bottle manufacturer. We put up a proposal to give him Column 25 from Chattanooga to points in Official Territory. Well, of course, we ran into terrible opposition from the Official Territory shippers.

The adjustment up in Official Territory was a truck competitive adjustment which they had made to apply generally throughout that territory. We had a truck competitive adjustment in substantial measure in the South. The Official Territory shippers said, "All right, now. You want to bring your man up here on this truck competitive level. You have to take us out on his truck competitive level." The gentleman from Chattanooga filed a complaint with the Interstate Commerce Commission, and before the complaint was heard he withdrew it. Meanwhile, we had published a commodity rate from Chattanooga to Cincinnati and Louisville of 25 cents per hundred pounds which then gave him the benefit of this truck competitive adjustment in Official Territory, and I thought he was very well satisfied. I know that back a while ago he did truck

[fol. 3859] a good deal of his bottles up into this territory, C.F.A. territory, and when we were trying to meet that competition he told us we would have to take into consideration in the measure of the rate what it would cost him to unload his car and load his car, that is, load his car at Chattanooga and unload his car at destination, something totaling about $20 a car, and we never could do that, so the matter dropped. I heard no more of it until he appeared at Indianapolis and testified. I do know that the man who is looking after his traffic at Chattanooga, Mr. Wood, urged the publication of this special rate from Chattanooga to Cincinnati and Louisville. At the moment that is the only instance I recall recently where we started to do something and stopped.

Q. Mr. Oliver, a man testified here just the other day about producing wine in Atlanta, Georgia, and you gave him the Official Territory basis as far as you could control it, that is to the Ohio River cities and St. Louis, but stopped there. Why not go on with it?

A. I do not know much about that adjustment. It has not come to my personal attention. I have heard something of it. The man at Atlanta has a plant in Brooklyn, New York, if I recall correctly, and we did fix him up a rate that enabled him to ship in tank cars from Atlanta to Brooklyn. I am perfectly willing to take another look at his adjustment to points in Official Territory.

[fol. 3860] Q. He is very anxious that you should.

A. I will certainly be glad to do that, sir.

Q. Now, Mr. Oliver, is this not the situation today, that if a shipper wants a competitive rate into the North and East, he has first got to come and convince you Southern carriers he is entitled to it; then if he is successful in that, you have got to go and try to convince the Official Territory carriers, and the Official carriers are very hard to convince?

A. I would not say that. Times change and men change with the times. We have not had near so much trouble with these interterritorial rates as you seem to think. I think we have gotten along pretty well with them. I do not mean to say that our adjustments are 100 per cent perfect. I would be crazy to make such a statement. However, I do say that we have gotten the situation pretty well in hand.

Q. But every one of them has to be negotiated, do they not?

A. Well, a lot of times I am around trying to dig out means of creating traffic. That is my job, to create traffic.

If I do not do that, I have made a failure of it. If I see a man is not doing business in a certain territory, or if his operations are being affected adversely, we have a man that goes there and tries to find out what his trouble is. I remember——

Chairman Aitchison: Let us not have any personal recollections any more, Mr. Oliver.

[fol. 3861] By Mr. Norman:

Q. Of course, you understand, Mr. Oliver, my point is, as I get it from a great many shippers, particularly the small shippers, the situation is such that they have to try to negotiate with you, and you have to try, if they can convince you, to negotiate with the Official Territory lines, and it is just such a long drawn out process requiring the employment of high-priced traffic men, and so forth, that it is pretty nearly impossible for them to do it.

A. I do not think it is necessary for them to employ high-priced traffic man. We have plenty of traffic men in the South handling these things. They do not have to go and employ high-priced traffic men to talk to me. If the man who is manufacturing the goods comes and tells me what his situation is, or I go to him and he tells me what his situation is, then I take a personal interest in it; and I think I can speak for my colleagues in the South. I think they all do that very thing, because it is our business to try to create traffic for the railroads we work for.

Q. You have tried to get these rates into Official Territory on the Official Territory basis, in many, many instances; I know that. I am not saying you did not. All I am saying is, it is so difficult for the average small producer of any commodity to ever get an adjustment, that he does not consider it worth while to make the attempt.

[fol. 3862] A. What would you do then? Would you tie us down in a straitjacket with a rigid class rate adjustment that applies in both directions, that you could not depart from?

Chairman Aitchison: It seems as though Mr. Oliver has become counsel and Mr. Norman is answering the questions.

Mr. Norman: I do not mind answering that question.

The Witness: What I despise in the traffic profession is any rigidity of things. I want freedom of action. That is what I want.

Mr. Norman: That is just it, Mr. Oliver.

By Mr. Norman:

Q. Of course, nobody wants rigidity, but yet nobody wants an overlord either, that they have to go to and try to convince or persuade in order to get justice, or get a proper adjustment.

A. I do not know of anything that can be more rigid than a fixed mileage scale. If you had such a thing, you would not be able to depart from it.

Com. Splawn: May I ask you one question, Mr. Norman.

Mr. Norman: Yes.

Com. Splawn: Do you contemplate that any decision here would change the relationship of the shippers and carriers in competition between the carriers, and so forth, with respect to these negotiations such as have been reviewed here this morning?

Mr. Norman: Why, yes. I do, Mr. Commissioner. I [fol. 3863] contemplate that you will establish a principle here that will obviate the necessity of having to go and try to persuade the traffic officials of the railroads to a certain point of view.

Com. Splawn: Do you mean to say that you expect to get a system of rates with which you will be satisfied for ever and a day?

Mr. Norman: Oh, no, no indeed. There is no such thing as that.

Com. Splawn: If you are not satisfied, to whom will you want to go?

Mr. Norman: Why, we hope to get here, Mr. Commissioner, a general principle that will be satisfactory. Then when it comes to specific or individual cases, they will be handled like they have been in the past, either with the railroads, or if that is not satisfactory, then with the Commission.

Chairman Aitchison: I understood Mr. Oliver's statement to be that the decision in the Southern Governors' Case had been helpful in the settlement of other controversies which arose subsequent thereto.

The Witness: That is correct, sir. The Southern Governors' decision vindicated the position that we took with Governor Graves, namely, that the Interstate Commerce

Commission has got the right to make these rates to move traffic.

Chairman Aitchison: Is that all, Mr. Norman?

[fol. 3864] Mr. Norman: That is all, Mr. Chairman.

Chairman Aitchison: Are there any other questions of Mr. Oliver?

Mr. McDonald: May I ask just three questions, Mr. Chairman?

Chairman Aitchison: Certainly.

Mr. McDonald: I am sorry to have to interpose this way, but this is something I am a little more familiar with than our counsel.

By Mr. McDonald:

Q. Mr. Oliver, you referred to your conferences with Governor Graves and the filing of a petition which listed a great many commodities which was subsequently amended by striking most of the commodities.

A. Yes.

Q. You are familiar, are you not, with the fact that there was a division of thought between the governors as to the proper remedy, as to whether they should seek a leveling of class rates or a leveling of commodity rates?

A. No. I do not know what went on within the governors' councils.

Q. That was a matter that was in the newspapers a great deal in the South at that time, was it not?

A. I do not recall that there was ever any division of opinion amongst the governors. Governor Graves was the bellwether of the whole movement. He told us he would [fol. 3865] furnish the commercial testimony in connection with these commodities on which Southern industry needed relief and we told him that if he would do that, we would support his complaint.

Q. Yes.

A. We carried out our promise.

Q. You told us all that. Do you know, then, that two petitions were filed, and two committees were appointed, one to handle the class rate case and the other to handle the commodity rate case?

A. I know what was said——

Chairman Aitchison: Just answer the question "yes" or "no."

By Mr. McDonald:

Q. Do you know that?

A. No. I do not know that, and I do not think that is a fact, Mr. McDonald.

Q. Well, I tell you it is a fact, sir.

A. All right, sir.

Q. Do you know the reason for the listing of all commodities was an effort on Governor Graves' part to get ahead of the Class Rate Committee and he listed every commodity, practically, he could think of and left in only those who were willing to pay their part and furnish the evidence finally; do you know that?

A. I know that politics entered into that in a big way, Mr. McDonald.

[fol. 3866] Q. There was no politics in that. That was merely a matter of furnishing the evidence you talked about, and the money to support the case.

A. I know they passed the hat around——

Q. Yes.

A. —and people donated that had no complaint about their rates.

Q. You are not familiar with any of the facts that I have asked you about, as to the division of thought and why the other complaint was filed with so many complainants in it, and subsequently amended?

A. I could not know what went on among the governors themselves.

Q. As a matter of fact, Mr. Oliver,——

A. I do know this, that in the petition for suspension of cotton factory products rates published to become effective June 8, 1937,—this petition was on behalf of the Alabama and Georgia mills—the statement was made: "Petitioners are informed and believe that it is the purpose of industry in the South through a Governors' Conference on behalf of industries including petitioner's company, to seek a determination of a proper basis on commodities generally." That petition was sponsored——

Mr. McDonald: That is evidenced by the fact they filed the petition. Thank you.

[fol. 3867] Chairman Aitchison: Is there any further cross-examination of Mr. Oliver?

Mr. McCollester: Just a few questions.

Chairman Aitchison: Mr. McCollester.

By Mr. McCollester:

Q. Mr. Oliver, of course it is part of your job to get as much business as you can for the Southern Railway system, is it not?

A. That is the way I understand it.

Q. It is part of your job to keep yourself informed of the rate requirements and general needs of industry in the South served by your system?

A. Yes, to the very best of my ability.

Q. On the basis of that, is my understanding correct that it is your testimony here that the present rate situation does not prevent the industrial development of the South, and does not prevent industries of the South from reaching their proper markets?

A. That is my position, sir, and I hope I was able to substantiate that position by giving concrete illustrations of what has been accomplished.

Q. Is it also correct that on behalf of the Southern Railway System you are opposed to putting into effect in the South the Official Territory level of class rates?

A. Unalterably opposed to that. I think it would be ruinous——

Chairman Aitchison: Are we going to go into all of [fol. 3868] that again now?

The Witness: All right.

Chairman Aitchison: This is supposed to be rebuttal testimony you are giving.

By Mr. McCollester:

Q. Mr. Oliver, as I understood your testimony, as part of your job which you have described, to build up traffic for your railroad and secure industries for the South, you went to Governor Bibb Graves and suggested that the Interstate Commerce Commission had power to do something in the matter; is that right?

A. I certainly did, along with my colleagues in the South.

Q. Then there followed after that the filing of the Southern Governors' complaint?

A. That is correct.

Q. In that proceeding you took a position different from the position you take here, is that right?

A. I do not think so.

Q. You supported that complaint which sought the Northern level of rates?

A. That is correct, where such level was necessary.

Q. What is the difference between your position here and your position in that proceeding?

A. There is absolutely no difference.

Q. Why not? Why do you not support the demand for the Northern level of class rates?

[fol. 3869] A. Because I do not want to wreck the Southern Railway. That is why I do not do it.

Q. And you consider that there is no need for the Northern level of class rates in the South?

A. I certainly do not consider there is any need at all for the Northern level of class rates in the South. They serve entirely different purposes in the North from what our rates serve in the South. I do not believe there is any reason at all, any substantial reason at all why we should scrap everything we have done over the years and adopt the Northern class rate level in the South.

Q. What has been your attitude as to joining in rates from the North to the South on the Northern level?

A. Well, I have been opposed to that. My position is that industry in the North should come into the South on our level of rates.

Q. Can you state what transportation consideration other than the desire to compete or to market goods, what transportation condition there is which justifies higher rates southbound than northbound between the same two points?

A. I think there is a difference in circumstances and conditions.

Q. Such as what?

A. For example, the competition to be met. If our industry goes into the North and East on the Northern level [fol. 3870] of rates, it is no discrimination against the industries within those territories. On the other hand, if an industry in the North and East comes into the South on our level of rates, certainly there is no discrimination there. Each has an equal opportunity on the same basis of rates, or substantially the same basis, and any difference in the measure of the rate would be due entirely to a difference in distance.

Q. Can you state any other consideration which would justify a difference in rates northbound and southbound on the same date between the same two points?

A. Yes. I will take an assumed case. We publish rates on a given commodity from the South to Chicago, for example, to meet competition from Pittsburgh to Chicago. Now, when we turn around and publish that same rate from Chicago to the South, we reduce the rates southbound, and consequently we have to reduce the rates intraterritorially within the South to enable the Southern manufacturer to meet that competition, and you simply have a vicious circle that would finally wind up in a lowering of freight rates all around the perimeter of the circle, and nobody would be any better off than they would be before.

Mr. McCollester: That again is an example of competition.

By Mr. McCollester:

Q. I asked you if you could state any transportation consideration other than the competition factor, distin- [fol. 3871] guishing the movement of freight northbound and southbound, which would justify on the basis of transportation costs or anything else other than competition, a difference in rates?

A. I do not think you could justify a difference in rates in different directions on cost of service. It would have to be done on the basis of competition and the proposition of moving the traffic.

Q. Well, now, Mr. Oliver,——

A. As a matter of fact, as to costs, I am not going into that matter very far because that is a subject in and of itself. Costs vary with the flow of traffic northbound versus southbound and eastbound versus westbound.

Chairman Aitchison: If you will just pay attention to the question, Mr. Oliver, and answer it crisply, it will facilitate matters. He asked you if you knew of any other circumstance of a transportation character which justifies it. You can say "yes" or "no".

The Witness: He also mentioned the question of costs there, Mr. Chairman.

Chairman Aitchison: He was using that as illustrative of what he was trying to get at. You did not seem to understand the question.

The Witness: I think I did. I think I did.

Chairman Aitchison: Well, do you or do you not know [fol. 3872] of any other circumstance than competition and the necessity for moving the traffic which would seem to be competition also—do you know of any other circumstance of a transportation character which justifies a different level of rates northbound and southbound?

The Witness: At the moment I do not.

Chairman Aitchison: That answers the question.

Mr. McCollester: Thank you, Mr. Chairman. Just one or two more questions and I will be through.

By Mr. McCollester:

Q. Suppose you have a shipment of a given commodity originating at a point on your line and handled for 200 miles over your line, then delivered to a connection for movement to a destination in Southern territory; and you have another shipment of the same commodity from the same origin moving 200 miles over your line for delivery to a Northern carrier for movement to a destination in Official Territory. On what basis would you justify charging higher rates to the shipper for the movement in the South for your 200-mile portion of the haul than you would charge for your 200-mile haul on a shipment that is going to the North?

A. Well, there is a difference in the circumstances and conditions surrounding the marketing of the commodity.

Chairman Aitchison: What are the circumstances and conditions which differ?

[fol. 3873] The Witness: If it takes a certain rate to enable the movement of traffic to the North and East, that rate then does not become the measure of a rate between two points within the South where the same competitive circumstances and conditions do not apply. We are trying to make rates to move traffic. We are not trying to work to a mathematical yardstick. Now, the Commission has always taken those things into consideration. We certainly have, on the railroads, ever since I have had anything to do with them.

By Mr. McCollester:

Q. You think the Southern shipper, then, would have no ground for complaint, or the Southern receiver, if he had to pay a higher level of rates for the same length of service because he lived in the South, than a consumer in the North?

A. No. I do not think he would have any cause for complaint, because if we had not made the rate that would enable the shipment to move north, the man in the South would not have been any better off because of that fact.

Q. Then so far as you are concerned——

A. His situation is not harmed under those particular circumstances.

Q. Again, then, we come down to the fact that if there is a difference in rates for the Southern buyer and the Northern buyer, it is not justified by any transportation consideration, but simply by the competitive factor?

[fol. 3874] A. That is true. We are not making freight rates based on costs, because we do not know what they are. It is different conditions that have to govern. For example, Mr. McCollester, the Tennessee Valley Authority, a governmental agency——

Chairman Aitchison: I do not want any more examples. We have just got to bring this to a close. You have already taken two hours and a quarter out of the time of 470 minutes allotted to your side.

The Witness: I am awfully sorry.

Chairman Aitchison: Proceed, Mr. McCollester.

Mr. McCollester: Just one further question.

By Mr. McCollester:

Q. Mr. Oliver, I understand that it has been your position that a shipper in the North shipping to the South should be charged the Southern level of rates. My question is this: assuming that understanding of your position is correct, what justification is there for the Northern railroads, for their haul in Official Territory, charging more because that shipment is going to the South than they would charge for a similar haul if the destination was in Official Territory?

A. Well, I do not see that there is any justification for that, Mr. McCollester.

Mr. McCollester: That is all, thank you.

Chairman Aitchison: Is there any further cross-examination of this witness? (No response.) Is there any redirect? [fol. 3875] (No response.) You are excused.

(Witness excused.)

Chairman Aitchison: Call the next witness.

Mr. Grubbs: Mr. Tilford.

Chairman Aitchison: Raise your right hand and be sworn.

J. E. TILFORD was sworn and testified as follows:

Direct examination.

By Mr. Grubbs:

Q. Will you state your full name and address, please, Mr. Tilford.

A. J. E. Tilford, Louisville, Kentucky.

Q. What is your occupation?

A. I am assistant vice president of the Louisville & Nashville Railway.

Q. How long have you occupied that position?

A. For the past five and a half years.

Q. Will you outline just very briefly your experience as a traffic man?

Chairman Aitchison: It is not necessary to go into that, Mr. Grubbs. We all know it by heart. It is not necessary, unless somebody questions it.

Mr. Grubbs: Very well.

Chairman Aitchison: Apparently no one does.

Mr. Grubbs: Thank you, sir.

[fol. 3876] By Mr. Grubbs:

Q. Are you familiar with the testimony presented in this proceeding by representatives of the Southern Governors' Conference?

A. I have read the testimony of Governors Cooper and Holland and was impressed with the statements they made that in some way the Southern class rates are retarding industrial development in the South. I was also impressed in reading the testimony with their earnestness in presenting their viewpoint and the fact that they felt that the Commission should determine the level of the rates, and that they were not seeking the level that would be injurious to the Southern railroads.

Q. In your position as assistant vice president of traffic of the Louisville & Nashville Railway, do you have a

responsibility to that company to work with industries on your line in the solution of their traffic problems and in the establishment of rates which will satisfactorily meet their needs?

A. Yes. That is my main responsibility.

Q. Does your department keep in constant contact with industries on your railroad?

A. Yes, through headquarters officers and division officers.

Q. Is the matter of attracting of new industry to the territory served by the Louisville & Nashville Railway a matter within your province?

[fol. 3877] A. Yes.

Q. Is this matter actively pursued by you or under your supervision?

A. Yes.

Q. How important do you regard this matter?

A. I consider the development of our railroads quite an important matter. Certainly, a railroad in the transportation business would do everything it reasonably could to locate industries on its railroad and in that way increase the need of its service.

Q. How long has the Louisville & Nashville Railroad been active in its efforts to attract new industries to the South?

A. The officers of the Louisville & Nashville have undertaken practically from its beginning to develop the territory served by the Louisville & Nashville. Milton Smith, who was, for a great many years, president of the Louisville & Nashville, I think is given the main credit for the development of the iron industry in Alabama. The presidents and other officers since that time have been very diligent in this matter of development, not only industrially, but in agricultural pursuits and in mining. The Specialized Industrial Department of the Louisville & Nashville was first organized in 1900, 42 years ago.

Q. Will you please briefly describe the organization you maintain for the location and development of industry on [fol. 3878] the lines of the Louisville & Nashville.

A. The Specialized Department is headed by a general development agent and three industrial agents. The general industrial agent devotes approximately half of his time and the three agents all of their time to the development of the industries on our railroad. The general development

agent also has the responsibility for agricultural and livestock development. He has a special force for that, however, and devotes about half of his time to it. We believe that balanced economy requires a development both of industry and agriculture, so we devote equal time to both.

Q. When there is under consideration a prospective industry, are the efforts confined to the efforts of this particular department?

A. No. I would say when there is a prospective industry under consideration, the headquarters staff, the traffic, operating and engineering departments practically constitute themselves into a research committee to find out everything they can about this prospective industry and what it needs industrially maybe in the way of transportation, tracks, cars, facilities and transportation charges.

Q. Does your interest subside thereafter?

A. No. We do not lag in our interest in the industry after it is once established. Not only the headquarters staff, but through our commercial office, we try to assist the [fol. 3879] industry to develop its markets, and guard very zealously its transportation charges both on its raw products and its manufactured goods.

Q. Do you know whether other Southern railroads maintain similar organizations?

A. Yes. Most of the major lines in Southern Territory, in fact, I think all of the major lines maintain specialized industrial departments and on the smaller lines that duty generally falls to the traffic manager.

Q. I will ask you whether, from your knowledge and experience, you feel that the general body of rates in the South meet or do not meet the needs of the shipping public in the South.

A. Yes. Speaking generally, I think they do. Of course, we cannot always make rates as low as a shipper might want to, but that would be true no matter what the general level might be.

Q. Now, would you please give your reasons a little more fully, for the answer which you have just made.

A. Some of my reasons are similar to those that were expressed by Mr. Oliver, so I will abbreviate a bit. However, I would like to preface my reasons by mentioning the background of the South. Following the Civil War and the disruption of what might be called the plantation era, with its free slaves, the experience of the inhabitants confined

them to agriculture. The section was devastated, without [fol. 3880] capital, and, naturally, they had to do what they could with their hands to produce a living.

In time, in recent years, the climate and the natural resources and the available labor have attracted industries to the South. The territory was served amply by railroad and coastwise steamship lines and as these industries were established, freight rates were adjusted to meet their needs, and I think generally speaking, with fair satisfaction to all concerned. Freight rates, from my experience, are rather a minor consideration in the location of an industry. The major considerations would be, so far as the South is concerned, its mild climate, the labor supply and the transportation facilities. Thus we have the textile industry that developed in the South that had convenient raw materials, that started with the gray goods, the cheaper grades, and have now developed into dyeing, bleaching and manufacturing. We have the iron industry in Alabama. It started with pig iron, but with the development of the open hearth method, it has now expanded into steel. They make all sorts of steel articles, some of them partially finished and some of them completely finished.

The tobacco interests were mentioned by Mr. Oliver. He mentioned North Carolina and Virginia. The tobacco industry has also expanded into Kentucky, and within those three states most of your tobacco products in the South and [fol. 3881] some from outside areas and imported tobacco, are now manufactured into cigarettes and smoking tobacco at Southern plants. Furniture which was also mentioned by Mr. Oliver is an important industry in Tennessee and North Carolina. Rayon and cellophane he also mentioned, and have become important industries. Now, kraft paper is promising to be a major industry.

Q. I do not believe you mentioned chemicals. Do you desire to say something about chemicals?

A. Yes. A few years back practically the only chemical industry in the South was the manufacture of fertilizer materials and the resin and turpentine in the Southern pine forests, but now the chemical industry has come to the South and has expanded, so that we have soda products, yellow phosphorus, various acids, and practically all of the soda products needed in the manufacturing processes in modern methods. These industries have developed in the South. Both the large and the small ones have found

markets. They have expanded so they now produce goods more than can be consumed in many cases in their immediate area, and are shipping their goods to other markets.

We have undertaken to adjust the freight rates so they can reach the markets they desire to serve. I would not undertake to say that the rates are so precisely adjusted that all of them are so accurate that they need no treatment; [fol. 3882] but there are occasions when conditions arise, or changed conditions require some modification in the rates that were once established. My experience with the shippers and manufacturers and business men indicates to me that the rate structure we have in the South is reasonably satisfactory; and regardless of everything else, my experience shows that the traffic is moving freely under the rate system we have.

Q. Will you please give the Commission the benefit of your views on whether a nation-wide mile for mile parity in rates will meet the needs of commerce and solve or tend to solve the economic ills of the nation, particularly of the South?

A. I find no objection in principle to a rate parity. Parity has already been attained partially on sectional lines. However, it is my opinion that parity nationally is impracticable, the major reasons being that the transportation conditions and the composition of the traffic in the various sections is too varied to enable a system of rates to be set up that will meet those average conditions on a national scale. That is the first reason. The second reason which might be embraced in the first, but is a refinement of it, is that the railroad systems themselves are not transcontinental in scope, and even your larger systems are confined to the geographic boundaries of the rate association territories which are natural barriers such as the rivers [fol. 3883] and the mountains; and it would be impracticable if you had system rates designed to reflect on the average conditions throughout the United States, for a given railroad corporation to wash out, so to speak, the varying conditions over its own system lines.

For example, the Louisville & Nashville, the Southern Railway, the G. M. & O., and the Illinois Central have lines that extend from the Ohio River to the Gulf. It would be practicable to find the average conditions in Kentucky, Tennessee, Alabama and Mississippi, and set up a system of rates that might meet those average conditions without

injuring those railroads. Another difficulty, it seems to me, in designing a national system based on averages is the historical method of adjusting rates. You had one system of rates that developed in Official Territory governed by the Official Classification and designed for somewhat different purposes, or at least used for different purposes, than the class rate system in the South where you had the Southern Classification; but at any rate, in these territories where, as a result of the Commission's decisions, there has been uniformity attained both as to the classification and scales and classification exceptions, with the railroads following the lead of the Commission generally on commodities, their system of rates grew up together and there were not so many variations in them.

[fol. 3884] For example, the Illinois Central, the Louisville & Nashville, and the Southern Railway operated practically the same system of rates, although there were great variations, you might say, before Docket 13494, but not as extreme as they would be between the Southern Classification and Official Classification with the system of mileage rates that grew up in the other territories, so it was easier to bring the two together, or the three or four as it might be. I am frank to say that when the Southern carriers presented their case in Docket 13494, while the railroads with great earnestness, the railroad officials in charge of it, attempted to find a common level, and we did in major part, there was some semblance still of the old adjustment that had developed along the Mississippi River and Mississippi Valley and into the southeastern part of the Southeastern Territory and in the Carolina section, that had some semblance of the old adjustments that had existed prior to the carriers' presentation of their case in 13494, although the adjustment did remove the glaring Fourth Section departures left by the South Atlantic coast rates and the gulf coast rates in the former adjustment.

Q. Where does your great concern lie with respect to this proposal of parity?

A. I do not know as I understand your question.

Mr. Grubbs: Let me put it this way:

[fol. 3885] By Mr. Grubbs:

Q. Where is the threat to you of parity?

A. I did not hear the question.

Chairman Aitchison: Read the question.

(Question read.)

A. (No answer.)

Chairman Aitchison: Perhaps he does not feel he was threatened, Mr. Grubbs.

Mr. Grubbs: I will put it this way:

By Mr. Grubbs:

Q. If the Official Territory level were used as the basis of parity——

A. Oh.

Q. —would that be a threat to you?

A. Well, it would, yes. I think after all, when you come down to the finality, the really important things in the matter of reducing to averages would be the revenue results, and that, in my judgment, is just as much a matter of public interest as it is railroad interest. We are under some handicap in this case in an attempt to appraise the result of a mile for mile parity, because we do not know what the level of rates or the method will be that is used in obtaining this parity. If the change contemplates or would result in a substantial lowering of the rates on manufactured goods and the transfer of the transportation cost to some other item of traffic, I think it would be hurtful to not only the railroad interests, but the shipping [fol. 3886] public as well. Of course, we are not concerned, as I see it, with a question of differentials. I dislike to use that word because we are not trying to make the Southern rates differentials higher than the rates in Official Territory. We are not concerned with that. We are concerned with the amount of revenue from all of the traffic, that all of the traffic will produce. The railroad officers, the railroad management and the owners, in my judgment, are not so much concerned with the source of the revenue, so long as it is sufficient to cover the cost of operation and pay their fixed charges and allow some reasonable margin of profit. From that standpoint, I think the revenue is a primary consideration.

Q. Assuming that the lowest level on manufactured goods——

A. May I add one thing to that answer?

Q. Yes.

A. I was just thinking. If you do not mind my interrupting you.

Q. Go ahead.

A. I would like to add that the studies that have been made of the revenue results for the decade, we will say, ending in 1939, indicate rather clearly to me that the Southern carriers are not capable of standing a substantial reduction in revenues. For that reason I mentioned that if the rates or charges or revenues from manufactured goods are to be reduced, it would be necessary, in order to keep the railroads alive, to transfer the [fol. 3887] charges or the losses to some other type of traffic. In other words—excuse me.

Q. Go ahead.

A. I will sum it up this way: a mere reshuffling of the largest prevailing part of the revenue now produced by manufactured goods and other classes of traffic, agriculture, mining and lumber, we will say, in my judgment, would not cure or help cure the ills of Southern industry.

Mr. Grubbs: Mr. Chairman, this is a convenient breaking point if you want to adjourn at this time.

Chairman Aitchison: We will supend until 2 o'clock.

(At 12:30 p. m., recess taken to 2 o'clock p. m.)

[fol. 3888] Afternoon Session

The hearing was resumed pursuant to recess.

2 o'clock P. M.

Chairman Aitchison: Shall we proceed.

Mr. Grubbs: Mr. Tilford.

J. E. Tilford resumed:

Direct examination (Cont'd).

By Mr. Grubbs:

Q. Mr. Tilford, you had told us, just before we recessed, that the primary concern of the Southern railroads is in obtaining sufficient revenues to operate their properties and obtain a fair profit, rather than in where the revenues come from. Do you have an opinion as to whether there

can be what you called a reshuffling of Southern class rates, that entails a material reduction in the rates on manufactured articles, without serious injury to the Southern railroads?

A. Well in my judgment, from my experience with respect to the transportation charges necessary to move traffic, my answer would be that it would be quite harmful to the railroads, to Southern industry and Southern economy, if the rates had to be reshuffled and I have in mind more than merely reshuffling on the so-called manufactures movement, or the class rate traffic. I also have in mind that it might take the direction of revising upward [fol. 3889] some of the rates on agricultural products, lumber, and other raw products, products of mines, for example. I think that would be very hurtful, if we were placed in a position where that would be necessary in order to produce sufficient revenue.

Q. You believe that would be harmful to the Southern railroads, do you?

A. Yes, sir.

Q. Now, Mr. Tilford, I want to turn the question in the direction of industry, Southern industry. Now, assuming that the lowest level of rates in existence at the present time on manufactured goods, which is that in Official Territory, were used to obtain mile-for-mile parity: What in your judgment would be the effect on Southern industry, and on industrial development in the South?

A. Well, leaving out of consideration the disastrous effect on the Southern railroads, the largest industry in the South, it is my considered judgment that such an adjustment would be harmful to Southern industry, and retard, instead of help, the industrial development of the South. I believe this because, in the first place, industries in the South distributing goods to Official Territory markets at the present time have rates on a level comparable to that in Official Territory, where such adjustments are necessary. I say this with some confidence because, since the decision in the Southern Governors' Case several [fol. 3890] years ago covering certain commodity movements northbound, not a single complaint has been filed with the Commission on other manufactured commodities. In fact, only one complaint involving the question of interterritorial level from the South to Official Territory versus

that within Official Territory has been filed in that time, and that covered green salted hides, which is an unmanufactured commodity.

By Chairman Aitchison:

Q. While a complaint may not have been filed in that time, since that case, the Textile Case has been reopened, and reheard, involving that same question,—has it not?

A. I am very sorry, Mr. Chairman, but I was not able to hear that question.

Q. I say, while a complaint may not have been filed since the Southern Governors' Case, the Textile Case has been reopened since then, and has been heard further, and it involves that question,—that is correct, is it not?

A. Yes, sir, that is correct. In the second place, a reduction in the rates on manufactured goods within the South, coupled with a reduction in the rates on such goods from the great Northern and Eastern manufacturing centers to the South, will not be helpful to the existing Southern industries, because it will narrow the margin of the present advantage that the Southern industries have in distributing in their own territory. This narrowing of [fol. 3891] margin of advantage will likewise retard industrial development in the South because it will narrow the economic advantage of locating industries in the South to be in competition with those already established in the North and East. I would like to state also, in connection with that proposition, that I am talking about the lowering of the level within the South, and from the North to the South, on the Eastern level. At the present time the rates in the Southern territory and from the North to the South are generally on the level prescribed by the Commission in Docket 13494, and, being on a higher level, the rate of progression per mile is higher than that in Official Territory, the two scales starting near the same point. In the third place, if a rate level parity is sound on manufactured goods, it is likewise sound on other traffic, such as lumber, fruits and vegetables, coal, and, so forth; and if this were the final result it would be hurtful to the South.

I do not believe that a reformation of the rate adjustments between all points east of the Rocky Mountains,—which is the scope of this investigation—would accelerate industrial development in the South. Indeed, if the railroads'

revenue is shifted in a substantial amount from high-grade manufactured goods to Southern agricultural and forest products and to raw materials and fuels used extensively by Southern industries, as a consequence of such [fol. 3892] a reformation, a great injury will result, which in my judgment will set the South back a generation.

Fourth: If the theory of rate parity were adopted as a policy by the Commision, it would be necessary, in order to maintain such a policy, to hold the adjustment which might be prescribed, by rigid order; and no railroad could have the discretion of changing such rates. Distance would be the only consideration, and there could be no departure without first obtaining the approval of the Commission. This, in my judgment, would be very hurtful to industry. Further, it would make railroad traffic vulnerable to the competition of other transportation agencies. Such other agencies could, for example, cut under the railroad rates in particular instances, and the railroad would be helpless to protect its traffic without first going to the Commission. Any method which makes railroad rates static is hurtful to industry.

Q. Are you in that situation under the order in 13494?

A. No.

Q. How would you be hurt, then, in the situation under 28300?

A. Well, it would not be very long, Mr. Chairman, before uniformity would be completely disrupted; either by individual railroads that might have different views on particular commodities; or by our State Commissions.

Q. We could suspend, and require you to justify; and [fol. 3893] that is what we did in 13494, was it not?

A. No, sir. We are at liberty to establish a commodity rate, or a classification exception. In other words, the rates are maximum rates, and they can be departed from. Of course, if the rate should then be attacked before the Commission as being discriminatory, or for any other reason, we would have to defend it.

Q. Or as being unreasonably low.

A. Yes.

Q. Well, I do not see why we cannot make an adjustment under 28300, as well as we could under 13494. What is the reason?

A. The reason for it is that while you have a maximum class rate order—well, let me go back a minute. As a matter of fact, there was no order issued in 13494 except that covering the Florida Peninsula; but assuming that there were such an order, assuming such an order were issued, if it were issued in the form of a maximum rate order, that would not prevent a railroad in New England from establishing rates on a given commodity, if you please, and if that commodity moved from the South, the parity that would otherwise be maintained would be greatly disrupted unless you prevented the New England Railroad from establishing its rate, let us say, to Chicago. I cannot conceive how it would be possible to maintain parity for any length of time without a rate order that would prevent anyone from establishing rates on any basis other than [fol. 3894] the parity established under such order—or the relationship established under such order.

By Mr. Grubbs:

Q. Mr. Tilford, in your experience, have you found that the present class rate structure acts as a deterrent to the establishment of new industries on the Louisville & Nashville, or in the South?

A. No.

Q. Have you had any manufacturer or prospective manufacturer assert to you that he could not locate a plant on your railroad because of the Southern Class Rate structure?

A. No.

Q. Are you acquainted with Mr. Morrell, Editor of the Manufacturers Record?

A. No.

Q. Well, I will state for your information, Mr. Tilford, that Mr. Morrell was a witness in this case, and among other things he testified that he was an agency or a channel through which prospective new manufacturers for the South would operate; and he told us that the way in which he operated was to sit down with such a manufacturer and lay the problem out before him, involving perhaps the selection of several sites, and then he would take the matter up with the Industrial Agents of the railroads, and other people who would be interested, looking to the location of

that particular industry in the South. Now I want to ask [fol. 3895] you. Do you know whether or not any effort has been made by Mr. Morrell to contact any of the Industrial Agents of the Louisville & Nashville Railroad, looking to the location of any industry on your railroad?

A. No, sir. I had never heard of any such proposition, and to be certain about it, I inquired of our Industrial Manager, who has been in charge of the department for a considerable time, and he has never had any such proposition either from Mr. Morrell or the Manufacturers Record. As far as the Manufacturers Record is concerned, I will say this: I think that the Manufacturers Record is a well-edited paper, that maintains an interest in industrial development in the South. Its staff has made a number of interesting and helpful studies of the natural resources and the possibilities of industrial development in the South, and to that extent it is helpful to us. But so far as giving us any definite tip on any industry is concerned, I never heard of it, and I do not know of any instance in which we have ever obtained such information from it. Now, I would like to add one further point.

Q. Yes.

A. It has been mentioned several times since I have been here. They do publish this yearly Blue Book, a statistical record of progress of industry and agriculture in the South, and it is really a remarkable record. I think that it would [fol. 3896] impress anyone who would read it, with respect to industrial development in the South, especially if one remembers that this development has occurred, practically, from the ashes of a devastating Civil War within the lifetime of many of those who are still living.

Q. Now, Mr. Tilford, I want to ask you this: Has Mr. Morrell, or has the Manufacturers Record, ever taken up with you the matter of adjusting your class rates to meet the desires or the needs of any prospective manufacturer?

A. No, sir.

Q. Now, you have shown the interest of the Louisville & Nashville Railroad in the industry development of the section which it serves. Have you a freight rate policy designed to encourage such development?

A. There are so many features that enter into the location of an industry, including the transportation charges on its product, that it can hardly be said that there is a fixed

or rigid policy. Stated in general terms, however, experience has evolved the policy of making the lowest possible rates on raw materials to the Southern plants, and on the fuel used in converting such raw materials. It has seemed to us that this is a sound policy, because these expenses enter directly into manufacturing costs, just as do wages, taxes, light, heat and other plant costs. In other words, the transportation charges on the raw products [fol. 3897] and the fuel are a plant cost, just like labor, light, heat, and other plant costs; and to the extent that the plant costs are held to a minimum, it would enable the selling of the goods at a profit, and fix the price of the goods to some extent, and the effect on the price would not be only in the territory that might be served locally by the plant, but in competitive markets as well.

Now, as to outbound products: The general policy would be to adjust the rates so that, on the manufactured goods, they could reach a specified market in competition with other producers. If there is a product produced at Birmingham, and also at Chicago, and the market is Cleveland, Ohio, we endeavor to adjust the rate to Cleveland, Ohio, so as to enable the Birmingham producer to sell his goods there in competition with the producer at Chicago, bearing in mind, of course, that frequently the amount of freight absorption against a competitive producer determines whether the product can be sold in a competitive market, or not. Likewise, if there is a product produced at Chicago and Birmingham that is to be sold at Charlotte, North Carolina, then Chicago should be held comparable, we think, with the product from Birmingham; but we do not think that it is necessary, in order to carry out that policy, to have a system of rates so that the mile-for-mile rates on all of the railroads in the South, and in the East, and in the [fol. 3898] North, and in the West, are the same.

Q. From your experience, Mr. Tilford, I will ask you just how important a factor in the location of manufacturing plants in the South, you have found the class rate structure to be?

A. Well, as I stated before, our experience has been that an industry frequently is more interested in the rates on its raw matrials and fuel, than it is in the rates on the outbound manufactured product. So far as class rates are concerned, an industry does not concern itself with whether the rate on its product is a class rate, or a commodity rate,

or a classification exception, or a column rate, or any other technical designation that a railroad might apply to its rates. It is interested, rather, in the amount of the rate that applies on its products; and I have explained our general method and policy of adjusting rates so as to meet the needs of the industry. Now perhaps I can illustrate what I have in mind by mentioning an industry that was located on the Louisville & Nashville Railroad just a few years back.

Chairman Aitchison: Is it necessary, Mr. Grubbs, to go into illustrations in this connection?

Mr. Grubbs: There is only one illustration, your Honor.

The Witness: I have in mind just one illustration to [fol. 3899] which I want to call the attention of the Commission, because I think that it will emphasize the point that I am making. With respect to this industry, after we learned what the product was, and what its general needs in the way of power, water and so forth, were, a tentative location was found, and arrangements were made to locate the plant there. An investigation was then made of the transportation charges, and we found for that industry that it was necessary, on the inbound products, to establish a rate on a chemical from a point in West Virginia; a rate on clay from a point in South Carolina, although clay suitable for this particular industry was found within 100 miles of the point where the plant was located; on a wooden article, from a point in Vermont; on a crude material to be imported through the gulf ports; on a reclaimed product, from a point in Ohio; on a mineral product from a point in Virginia; on a product from Louisiana and Texas; and also on a product from a point in Indiana. Now, outbound, the rates, based on the class rates, were found to be generally satisfactory, except to a few points in Illinois and Ohio; but after negotiating with our Northern connections, suitable rates were established, and the industry was able to operate under the level of rates that applied. The main adjustments were in the rates on raw products.

By Mr. Grubbs:

Q. Now, Mr. Tilford, will you please state to the [fol. 3900] Commission your views as to whether a readjustment of the entire class rate structure should be made, in contemplation of the post war conditions.

A. Well, it seems to me that we must view the matter from the standpoint of a long-range program, and not from the

standpoint of the unusual tonnage movement and revenue results, in connection with the war emergency. During this period it is necessary for the railroads to supply increased facilities, resulting in an increase of their capital costs, and that may be a burden on commerce when times again become normal. We have to keep in mind also the fact that other transportation facilities have increased their capacity; in other words, there are more trucks, more pipe lines, more airplanes, more boats.

By Chairman Aitchison:

Q. Do you mean by that, that all of those things are in commercial service at the present time?

A. I am talking, Mr. Chairman, about the condition that we may have to face after the present emergency is over.

Q. You are not talking about the present, then?

A. Well, at the present time there are more trucks than there were, yes, sir. They are expanding now because of conditions resulting from the war, and the trucks will be here to compete with the railroads after the war.

By Md. Grubbs:

Q. In greater numbers than heretofore?

A. Yes, sir, in far greater numbers than heretofore, and [fol. 3901] not only common carrier trucks, but private trucks and contract trucks. So as I see the thing, looking at it on the basis of the long-range picture, the competition between all forms of transportation is going to be so keen when times again become normal that the available traffic will be very thin, the tonnage will have thinned out, and the revenue that the railroads, and these other transportation agencies will receive will be so thin that I would not undertake to predict the future of many of the Southern railroads. In view of the uncertainties, and in view of the many unknown factors with which transportation will be faced after the war emergency is over, I believe that it would be unwise to undertake the reformation of the freight rate structure at this time.

By Com. Splawn:

Q. You rather despair, then, of the railroad industry, do you?

A. Pardon me, sir?

Q. You are painting a rather despairing picture of the future of the railroad industry, as I understand you.

A. Oh, no, I am not despairing; I am always hopeful; but the point is simply this, that we must face these conditions, because they are coming, and there is no question about it.

Q. The railroad managements have had many difficulties to contend with in past years, have they not?

A. That is true.

[fol. 3902] Q. It has been very inspiring to see how they met them, and overcame them. I for one have confidence that the present and future railroad managements will continue successfully to struggle with their difficulties, as they may arise from time to time.

A. That is true, Mr. Commissioner, but I was merely expressing an opinion as to whether or not it would be wise to change the rate structure, in contemplation of that situation.

Q. Well now, with respect to the rate structure: It is in constant flux, is it not?

A. Yes, sir, that is true, but not in a wholesale fashion. We change rates to meet changed conditions, and the needs of commerce.

Q. Occasionally we have a rather wide readjustment, do we not?

A. Yes, sir, that is true, and then it takes a long time for industry and the railroads to accommodate themselves to it.

Q. Do you honestly feel that it is anything very radical, after a period of 10 to 15 years, to resurvey the classifications, classification ratings and class rate levels?

A. I am very sorry, Mr. Commission--, but I could not hear your question.

Mr. Grubbs: Will you read it, please, Mr. Reporter.

[fol. 3903] (Question read.)

A. Oh, no, sir, I would say that it is a very appropriate thing to do; but my judgment simply is that it would be better to have these changes occur by evolution, rather than by revolution.

Q. Well now, what is revolutionary about a hearing of this sort, where you gentlemen give us the facts, and we decide whether or not any classification shall be adjusted, or changed, or let alone?

A. I am basing my opinion at the present time, Mr. Commissioner, on the evidence that has been presented in this case, and the evidence that will be presented by others in

the case,—all of the evidence. I have perfect confidence that the Commission will use great discretion, and apply all of the evidence in the case, in reaching its conclusion or decision.

Q. In your testimony, among other things, you have been telling us your views as to the influence of freight rates upon the location of industry; is that correct?

A. Yes, sir.

Q. And you are not undertaking to advise us here as to whether or not, or how, to change the rate levels, in consideration of the facts bearing on that issue, are you?

A. I am not suggesting any change, no, Mr. Commissioner, because I believe that the situation is reasonably [fol. 3904] satisfactory.

Com. Splawn: Continue.

By Mr. Grubbs:

Q. Mr. Tilford, what have you to say about making such revision in contemplation of the post-war needs of manufacturers who may wish to convert war plants to commercial production?

A. Well, based on my experience in the past, I do not believe that a revision in the class rate structure will necessarily meet the needs of a new industry that might utilize a war plant. I have mentioned several times before that a new industry, a new manufacturing industry, is very frequently more interested in the rates on its raw materials than it is in its other rates, so that a readjustment of the class rates could not possibly assist in solving that particular problem. We would have to know what the products were that were going to be produced, in order to know what the individual commodities were that would be converted; and we would have to know also what the outbound manufactured product was, and what markets were intended to be utilized, and the marketing of the product. If, as a part of the plan that has been advocated here, the rates on manufactured goods were tied rigidly to a mileage scale, that might interfere with the utilization of these war plants as peacetime industries, for the production of peacetime products, if the product that somebody might decide to pro- [fol. 3905] duce was marketed in an area where other producing plants would have a much shorter distance, in serving the same market. That might seriously interfere

with the conversion of the plants. Furthermore, so far as the South is concerned, the number of manufacturing plants that are being established as a result of the war, is relatively few, certainly as compared with existing industries. It does not seem to me that we should undertake a wholesale revision of an important part of our rate structure for those relatively few industries, which would also disturb the rate adjustment, as I see it, of the industries that are already established. I do not think it would require a complete revision of the rates east of the Rocky Mountains to meet this situation. It seems to me that a more important thing would be to study these industries, their location, and what they are capable of producing in peacetimes; and that would also carry with it a study of their transportation needs, including freight charges. I might say that so far as the Louisville & Nashville Railroad is concerned, we propose to make such a study as soon as our Development Department has the time to do so. Right at the present moment, of course, they are still very busily engaged in the war effort,—that is, in locating industries, camps, flying fields, and projects of that sort connected with the war effort. I might also say that there have been more flying fields, temporary warehousing projects, and camps lo-
[fol. 3906] cated in the South, than there have been manufacturing industries, in connection with the war. There have been quite a number of industries, of course, in the South that have been converted to the production of war materials, but I am talking about new plants, now. As far as those plants that have been converted to the production of war materials are concerned, while they may find new usefulness after the war, their part in peacetime economy was fixed by the product that they were manufacturing heretofore.

Q. Mr. Tilford, there is just one other subject concerning which I would like to inquire of you, and that is as to your views in connection with the statement of Mr. Spottswood, in which he asserted that it is not in the national interest for the South to be so dependent upon cotton, that single-crop production may be ruinous in times of disaster, such as the boll weevil, and that there is need in the national interest for the development of perishable foodstuffs to take the place of the traditional Southern cotton. I would like to have you tell us just briefly what the efforts of the Southern railroads have been in that direction. You

have already told us, in a brief way, that the Louisville & Nashville Railroad has a department that not only deals with industry, but that also deals with agriculture, and I do not want you to repeat anything that you have [fol. 3907] already covered. I wish you would just tell us, in a very brief way, what has been undertaken and what has been accomplished by the Southern railroads in the direction of diversification of agricultural products and animal products?

A. Well, there is no doubt but what cotton is an important Southern crop, especially in some of the Southern states. It has always been a quick-money crop. But if anyone says *that the* South is a one-crop territory today, that is based upon an economy that existed a good many years ago. I think the boll weevil itself disrupted the one crop idea. So far as the Louisville & Nashville Railroad is concerned, we have made no effort in a great many years, to encourage the raising of cotton. We have left that entirely to the experience and judgment of the Southern farmer. Our effort has been to aid in finding other crops that would also be quick-money crops, that could be converted quickly into money. We have tried, for example, to encourage the various agricultural interests in the raising of vegetables. In that connection I can cite one quite important development on the Louisville and Nashville Railroad. In one county in Alabama, through efforts extending over a period of some 25 or 30 years, we have developed agriculture to the extent, that, about three years ago, there were about 10,000 carloads of vegetables turned out from that one county in about six weeks. It is a seasonal crop. The bulk of it consists of potatoes, but there are other vege- [fol. 3908] tables also. The crop has not been so large in the last three years, there, largely because of labor trouble; but that will illustrate the effort we have made to bring about a diversification of agriculture, and produce a crop that will provide cash to the farmer. I might mention strawberries also; we have increased the production of strawberries. Unfortunately for us, the trucks have taken all of that movement, but nevertheless we have continued to encourage the farmer to raise strawberries because it is good for the economy of the territory. The same thing applies also to peanuts, and beans, and other items that I might mention. Therefore you cannot truthfully say today that the South is a one-crop territory. It certainly is

not in the territory that is served by the Louisville and Nashville Railroad, at least.

Q. Does this development of the production of fresh vegetables to which you have referred, extend throughout the South, or is it limited to certain sections?

A. Well, it is limited in a way to the deep South, you might say, although there are vegetables of the same type that are raised in all of the Southern states. Take West Tennessee, for example, and they raise in that territory a substantial volume of sweet potatoes, tomatoes and beans.

Q. Have your efforts in the direction which you have described, included also such activities as the development [Vol. 3909] of the production of such commodities as dairy products, poultry and meats animals?

A. Yes, sir, mainly the meat animal. I might also mention that there has been a development of tung oil trees, for example—or tung nut trees.

Mr. Northcutt: If I may interrupt to ask just one question.

By Mr. Northcutt:

Q. Is it not a fact also, Mr. Tilford, that this particular Alabama county to which you referred ships out a substantial number of carloads of gladiolas?

A. Yes.

Q. That is, a flower.

A. Yes, sir.

Q. Moving all over the United States?

A. Yes, sir, that is true.

By Mr. Grubbs:

Q. Do you have in mind any further statement that you would like to make for the record, Mr. Tilford?

A. I believe not.

Mr. Grubbs: The witness is ready for cross examination, if the Commission please.

By Chairman Aitchison:

Q. Mr. Tilford, you were present here and you heard the questions that I asked of Mr. Oliver with respect to what data or information he had concerning the relative importance of class traffic and other traffic—did you?

[fol. 3910] A. Yes, sir.

Q. What would your answer be, to the same question that I directed to him?

A. Well, I am very sorry, Mr. Chairman, but I do not believe that I will be able to give you a very much better answer than Mr. Oliver did. When we discuss transportation charges and the movement of traffic under them, we classify them ni the category of class rate traffic and commodity traffic, and we know that certain products move largely as commodity traffic, and we know that there are quite a number of exceptions to the classification, and we know generally how they happen to be in there—

Q. No, I am not interested in that. I want to limit it only to that one point.

A. Well, there are about 1,000 items, roughly,—at any rate, there are considerable items, carload items, in the classification. Now we know from our experience that there is a substantial movement of manufactured goods under the class tariffs, the classification and class rates; but to put it into tons, or percentage, would be impossible; and I feel that I am not capable of doing that without some study.

Q. Could you give us any opinion, or any information as to the relative proportion of normal class traffic which is less than carload, as compared to that which is carload?

A. Less than carload—

[fol. 3911] Q. As compared with carload?

A. As compared with all carload, I can give you that approximately, in percentage, yes, sir. Just a moment. You want to restrict that to movements under the class tariffs, do you.

Q. Yes.

A. Well, then I am very sorry, Mr. Chairman, but I am afraid I cannot give you that. I would like to make this comment on that, however: That in the South there is certain traffic peculiar to the South, that moves, as we call it, any-quantity, but which is really less than carload. That would cover cotton, although in recent years that has been mostly carload; it would cover naval stores, rosin and turpentine, from the for sts; it would cover our peculiar method of marketing grain and grain products, where the movement from the mill, the flour mill, or for the mill, is in less than carload quantities; and would cover various other commodities, practically all of which move

in less than carload quantities, and on commodity rates. I would say, then, that, leaving out those particular commodities, and the items that have been published as classification exceptions; as a method of taking care of the adjustment quickly, there is a substantial amount of traffic moving as class rate traffic, under class rates, less than carload, but as far as dividing it is concerned, I would not [fol. 3912] be capable of doing that, either on the basis of tonnage, or the revenue that would accrue, on the heavy less than carload moving commodities, that are peculiar to the South.

Q. To what extent is the K-2, Q-1, combination being used now in the South?

A. I am very sorry, Mr. Chairman, but I was unable to hear the question. Will you repeat it, please.

(Question read.)

A. That is the foundation for the class rate adjustment, and there is a substantial quantity of freight, both carload and less than carload, that moves under that basis. Of course, there is not a complete movement of everything that is classified in the classification, I will grant you that, but there are quite a number of items, both carload and less than carload ratings; so that even with about 1,000 of those column ratings, or classification exceptions, and even with the 3,000 items on which we reduce the less than carload ratings, there would still be a substantial amount of goods that would move under the class tariffs, the full classification. I believe that is the best answer that I would be able to give you, to that question, without some revenue test.

Q. I suppose, then, that you could not break it down as to the class traffic which moves intraterritorially, and that which moves to each of the rate territories that are involved [fol. 3913] in this proceeding.

A. No, sir, I could not, but I would say that the larger class rate movement would be interterritorial, because there continues to be such a substantial quantity of manufactured goods moving from the North to the South, where there are no factories in the South.

Chairman Aitchison: Cross-examine.

Cross-examination.

By Mr. Norman:

Q. Mr. Tilford, you stated that the rates northbound interterritorially had been put on the Official Classification basis, wherever that was needed, or something to that effect. Was that the language that you used in that connection?

A. The way I stated it, Mr. Norman, to repeat it the way I stated it originally, was this: I say with some confidence that the rates generally fitted the needs of industry, because, in the two or three years that have elapsed since the Southern Governors' Case was heard, we have not been able to get a similar case before the Commission.

Q. Well, I will come to that other matter in just a moment, but what I am asking you right now is this: Did you not say that the northbound rates generally were on the Official Territory basis, or that was needed?

A. No, sir.

Q. You did not say that?

[fol. 3914] A. So that the record will be perfectly clear, may I state to you again, Mr. Norman, what I did say?

Q. Well I do not want to have you burden the record by repeating what you have already said.

A. All right.

Q. Do you know to what extent the traffic that is moving at the present time, that would ordinarily move on the class rates, moves on rates that are approximately on the Official Territory basis?

A. Well now, I am afraid that I would have a rather difficult time endeavoring to answer that question, because, in the first place, I do not know what you mean when you say "that would ordinarily move on the class rates."

Q. Well, Mr. Tilford, you know what traffic ordinarily moves on the class rates, do you not?

A. I know——

Q. You know what the classification covers, do you not?

A. I know what the classification covers, yes, sir, but there is a lot of traffic in connection with which there might be a difference of opinion as to whether it moves or should move on class rates or commodity rates.

Q. Well, referring, then, to the traffic that moves under the classification.

A. All right.

Q. Does most of that, which moves at the present time, [fol. 3915] move on rates approximately the same as in Official Territory, moving north into Official Territory?

A. Will you repeat that.

Mr. Norman: Read it, please.

(Question read.)

A. I would say, from the South to the North, where there is a substantial movement of traffic from Southern manufacturing points, it would move under rates other than the class rates.

Q. That is right, because, in order for you to put them on the northern basis, or anything approximating it, you would have to take them out of the class rates, would you not?

A. Not necessarily so, no, sir.

Q. How could you do it otherwise?

A. Well there are a good many rates that are on the so-called column basis, applying in both directions.

Q. No. I say, in order to do that, you would have to take them out of the classification, would you not?

A. Well, those were taken out of the classification, for some reason or another, other than the northbound competition.

Q. But in order for you to establish a northbound rate on an article that is in the classification, and establish it on the basis that obtains within the North, you must publish it as an exception, must you not, because otherwise, if you [fol. 3916] leave it with the class rate applying, it is bound to be higher than the level in the North, is it not?

A. Why, I think that would be generally true, yes, sir. I mean, there may be exceptions to that, but I would accept that as a general statement; but I do not accept it as a statement that all traffic manufactured in the South must have a rate that is on the Northern level, because we have manufacturers in the South who are shipping north on the class rates.

Q. Now, you seem to rely, as did Mr. Oliver, who preceded you, pretty much upon the fact that there have been no complaints filed recently. Do you not know that that

has been because of the pendency of this very proceeding in which you are now testifying?

A. No.

Q. And that the parties are hopeful, at least, of securing relief, as the outcome of this proceeding?

A. No, sir, I didn't know that.

Q. Well now, let us see. You know about the Owensboro case, do you not?

A. The Owensboro case?

Q. Yes—Owensboro, Kentucky, where you have established the rates, as far as you can carry them, on the Official Territory basis, or approximately that, and the Northern lines will not joint you, and you cannot carry them any further.

[fol. 3917] A. Well now, I want to tell you about the Owensboro situation, because I can explain that; but I first want to say that it has never taken the direction of a complaint, nor have the people there ever said that they would file a complaint. The Owensboro situation is simply this, that when the L. H. & St. L. operated as an independent railroad, with an independent management, the rates to and from that station were made on the Official Classification basis. When that property was taken into the operation of the Louisville & Nashville Railroad, the Louisville & Nashville Railroad decided, and quite properly so, that it could not continue the Official Classification basis on one part of its line, with the Southern Classification basis applying in all other directions; so we then adjusted the rates on the basis of the Southern Classification, using Docket 13494, and we got the necessary authority from the Commission to do so. Now Owensboro, of course, preferred to stay on the other basis. Recently the trucks established rates that were made a differential over Bedford, Indiana, I believe——

By Mr. Northcutt:

Q. Rockport?

A. —or some point in there just north of Owensboro, that put them on the Official Classification basis. The Louisville & Nashville Railroad, and the Illinois Central Railroad, serving Owensboro, then decided that they would, to the extent that they could obtain concurrences, [fol. 3918] or authority, put those rates in—or rather, that

they would meet the truck competition; and to the extent that we could, we met the truck competition, and got the necessary Fourth Section relief from the Commission, to do so. All that was involved there was simply a question of meeting competition, and if some of the C.F.A. lines declined to join us in meeting that competition, why, that was their prerogative.

Q. But the fact is that they have not gotten any relief, except what you could give them; that is correct, is it not?

A. They are still shipping by truck. They do not need the railroad to reach these C.F.A. points. They are not hurt.

Q. Well, they think they are. I might say for your information, Mr. Tilford, that I advised them not to bring a complaint until this proceeding had been disposed of, to see if they might get relief here.

A. Well, I do not know anything about that. All I know is that there has been no complaint filed.

Mr. Grubbs: I move to strike the statement of counsel from the record.

Chairman Aitchison: Counsel will have no objection, I take it.

Mr. Norman: I do not care.

By Mr. Norman:

Q. Do you not also think, Mr. Tilford, that another reason why complaints have not been filed, recently, at least, [fol. 3919] is because of the existing war conditions.

A. Well, I do not know. The plants that produce war materials, and the Government agencies also that are interested in those plants, do not hesitate to come around for rate adjustments, and we have made a lot of them since the war came on, since the war started.

Q. Well, you have not had the complaints that you ordinarily have, filed before the Interstate Commerce Commission during the war period, have you?

A. Well, we try, of course, to keep them away from the Commission, as much as possible. That is, we try to adjust the rates, if we can, if it can be done.

Chairman Aitchison: You have not answered the question.

The Witness: Pardon me. Will you state it again.

(Question read.)

A. Well, we have not had very many complaints filed, that is true; I will say "Yes" to that—although I am doubtful if we had any before the war that were filed against the general level of our rates.

Chairman Aitchison: I think you had better say "No" to that.

By Mr. Northcutt:

Q. Is that your answer, Mr. Tilford?
A. How?

Mr. Norman: "No"?

[fol. 3920] By Mr. Northcutt:

Q. "No"—the way he put the question?
A. All right. I was just accepting what he said, although I am not just exactly certain—well, let it stand that way. I will accept what he said.

By Mr. Norman:

Q. Now, Mr. Tilford, I understood you to say that if the rates on manufactured articles are reduced, you will have to increase the rates on raw materials. Has anything like that been done in the past? When you reduced the raw material rates, did that affect the class rates, or when you reduced the class rates, how did that affect the rates on the raw materials?

A. I do not know how far back in the past you are attempting ot go, in that question, but we never in my experience have been confronted with a proposition such as this.

Q. Well, you reduced the rates on some 3500 commodities in September of 1940, did you not?

A. In my judgment that did not affect our revenues one-tenth of one per cent.

Q. Why? Because you were not getting any of the traffic?

A. We did not get any more of the traffic. The number of items is huge, but the amount of movement under those ratings is relatively small as compared with the great body of rates.

Q. You have made general changes in some of the commodity rates, have you not, both up and down, without any [fol. 3921] change in the class rates.

A. Without any change in the class rates?

Q. Yes.

A. Yes, sir.

Q. Now I understood you to say that because of the difference in the method of distributing the transportation burden, or the difference in the consist of the traffic, the Southern carriers had to have a different basis of rates from the Northern carriers. Is that right?

A. I take exception to referring to it as the transportation burden. I do not think it is a transportation burden. I think it is a transportation opportunity, to ship the goods. What I did say was that we are not concerned, in so far as our general level of rates is concerned, within Southern Territory, or so far as the southbound rates are concerned, with the level of rates operated by the Official Territory lines. We are concerned with the measure of the rates that we charge, and the revenue that would be produced for the Southern carriers. For example, if the Pennsylvania Railroad puts in a certain level of rates, we do not contend that our rates should be a differential higher than that; and if they should find it necessary to raise their rates to the level of our rates, we would not raise our rates if our rates would continue to produce the revenue that we needed.

[fol. 3922] Q. You would do that on certain traffic, however, would you not, such as coal, and lumber?

A. I thought that we were talking about class rate traffic here.

Q. Well, how is it that, with such marked differences in the consist of the traffic as exist, as between the Southern Railway and the Louisville and Nashville Railroad, the two of you can exist on the same general rate structure, whereas you seem to think that it could not be done, with respect to some of the Northern railroads.

A. Well, of course, I can discuss with you what we do, but I cannot speak for the Southern Railway, as to how they can do anything. I mentioned in my previous testimony the reasons why I thought it was practical to have an intraterritorial rate level that is substantially equal, mile for mile. We are operating in the same territory, and the competition is keen. The competition alone would almost compel that,

so far as manufactured goods or class rate articles, are concerned.

Q. Then your answer to the question is that the reason why the Southern Railway and the Louisville & Nashville Railroad can operate on the same general rate structure, although their consist of traffic is very different, is because they have to; is that it?

A. Well, I would rather put it this way: It is because the [fol. 3923] circumstances and conditions make it necessary.

By Chairman Aitchison:

Q. Well now, you talk about circumstances and conditions. We do not know what they are. Tell us what the circumstances and conditions are.

A. Well, the two railroads, in the first place, substantially parallel each other from the Ohio River to the Gulf. They are in competition at several important points on the line, and if we meet each other's rates at those important points, that would practically compel an equality, or an equal level, mile for mile, at the intermediate points. Then I also mentioned the fact, I believe, that historically this group of railroads has grown up under the Southern Classification, with practically the same level of rates, and it was easier to bring the rates of those railroads together than it would be to bring the rates of the Southern railroads and the New England railroads together.

Q. That means, then, competition, and an inability or an unwillingness to attempt to devise anything different.

A. Yes.

Q. Those are the circumstances and conditions to which you refer; is that correct?

A. Yes, sir.

By Mr. Norman:

Q. But whatever may bring it about, the fact remains that notwithstanding this wide difference in the consist of the traffic, they exist under the same general rate struc- [fol. 3924] ture; that is correct; is it not?

Mr. Norman: That is all.

Mr. Grubbs: Just a moment, please, Mr. Tilford.

Chairman Aitchison: Is there any further cross-examination?

Mr. Smelker: I have just one question, if the Commission, please.

By Mr. Smelker:

Q. Mr. Tilford, in your judgment, do natural resources and reserves in any given territory have any effect on the rate structure in that territory?

A. Do you mean, undeveloped resources?

Q. Yes.

A. Oh, I doubt if they would; I doubt if they would have any influence on the rate structure. That is my judgment.

Q. Present, or future?

A. In other words, the railroads do not attempt to fix the economy of an area. The citizens, or the people whose capital and energy develops the resources, present their problems to the railroads, and then the railroads adjust rates to fit the traffic offered.

Mr. Smelker: That is all.

By Chairman Aitchison:

Q. You never gave the farmers along your line, then, any fine-bred stock, as an incentive to the development of higher grade livestock, did you?

A. Oh, to those farmers who were sufficiently energetic to [fol. 3925] raise livestock, we would, yes, sir.

Q. The policy of the Louisville & Nashville Railroad Company, as I understand it, is in sharp distinction to that of the late Mr. James J. Hill, is it not, with respect to the development of a territory, and the shaping of the economy of that territory?

A. I doubt very much, Mr. Chairman, if it would be practicable to shape the economy of the territory by fixing rates in advance. That is my judgment.

Q. Did not Mr. Hill attempt to do that?

A. Oh, he might have attempted to do it, yes, sir, but I do not know with what success. I would like to make this further comment on that point, Mr. Chairman, if you will allow me to do so: If a citizen along the line of the Louisville and Nashville Railroad comes to us and says that he wants to manufacture stoves, we undertake to quote him rates on stoves. We do not say, "We would prefer that you manufacture tractors, and we will give you rates on tractors, but not on stoves." Or if he goes into the ground and digs out clay, and says that he wants to ship his clay to Liverpool, Ohio, to make crockery, we try to quote him rates

on clay. We do not say to him, "We cannot give you any rate on clay, but if you want to manufacture crockery down here, we will give you a rate on the crockery." In other words, we try to adjust our freight charges to the efforts— [fol. 3926] or to the needs of the citizens living along the line.

Q. Are you familiar, in the lexicon of Southern rate-making, with the expression "missionary rates", or "development rates"?

A. Yes, sir, I am familiar with that, although they generally have somebody to use the missionary rates, before they make them.

Q. Do you do anything of that sort down South?

A. I doubt if we are doing it at the present time, except to the extent I have indicated, of making very low charges on the raw materials. In a sense, they are missionary rates, those rates are, I should say.

Q. Do you know whether or not other carriers, in other sections, are following that policy?

A. I am sorry, Mr. Chairman, I would not be able to answer that question as to what other carriers are doing.

Chairman Aitchison: Is there any further cross-examination of Mr. Tilford? (No response.) Have you something further, Mr. Grubbs?

Mr. Grubbs: Yes, your Honor.

Redirect examination.

By Mr. Grubbs:

Q. Mr. Tilford, Mr. Norman, during his cross-examination, asked you if it were not true that where you have a movement from the South to the North, it is necessary for you to go below the classification basis. In answering [fol. 3927] that question, you gave the illustration of a new manufacturer locating on your line. Am I correct in understanding that his outbound traffic does move on class rates?

A. It moves on the class rate basis, but as to whether it moves on exceptions to the classification, or straight class rates, I am not sure. However, the basis was already in effect before the industry was established there.

Q. The point that I wanted to make was this: I was a little bit afraid that perhaps the impression may have been left from your testimony that nothing moves to the North on class rates.

A. Oh, I believe that there are movements to the North on class rates; undoubtedly there are.

Mr. Grubbs: That is all.

Chairman Aitchison: Is there anything further?

Mr. W. R. McDonald: I have a few questions, if the Commission please.

By Mr. McDonald:

Q. Mr. Tilford, you, and Mr. Oliver, and Dr. Duncan, have all referred here to the survey, the Blue Book of Southern Progress.

A. Yes, sir.

Q. Mr. Bell suggested, in his examination of Dr. Duncan, I believe, that it also embraces Southwestern Territory, as well as Southern Freight Association Territory. Is it not true that that survey also includes all of the states of [fol. 3928] Virginia, Kentucky, West Virginia, Maryland and Missouri?

A. I think it includes the states that you mentioned, yes, sir; generally the states south of the old Mason and Dixon line.

Q. Yes.

A. I will say this, however, that the statistics that are contained in that report are broken down by states, so that it is possible to examine the results for each state.

Q. But the Southern District survey contains some 16 states, does it not?

A. I think that is correct.

Mr. McDonald: That is all.

Chairman Aitchison: Are there further questions?

Mr. Grubbs: Nothing.

Chairman Aitchison: That is all.

(Witness excused.)

Chairman Aitchison: Mr. Gwathmey.

Mr. Gwathmey: If the Commission please, may we be off the record for a moment?

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Back on the record.

Mr. Gwathmey: Mr. Doss.

R. J. Doss was sworn and testified as follows:

[fol. 3929] Direct examination.

By Mr. Gwathmey:

Q. Mr. Doss, will you please give your full name, your residence, and your official railroad position.

A. My name is R. J. Doss; my residence is Wilmington, North Carolina; I am Vice President of the Atlantic Coast Line Railroad Company.

Q. Will you state briefly your experience in railroad traffic matters in the South?

A. Well, I started railroading as a telegraph operator in 1900, and since 1907 I have been in the Traffic Departments of either the Louisville & Nashville Railroad, or the Atlantic Coast Line Railroad. I have been with the Atlantic Coast Line Railroad nearly 30 years.

Q. Now, before taking up your prepared statement, Mr. Doss, there are one or two preliminary questions that I would like to ask you. Are you able to give the Commission an estimate of the proportion of total revenue of the Atlantic Coast Line Railroad Company that is derived from the movement of traffic moving under class rates, as distinguished from exception ratings, column ratings, and so forth?

A. I cannot give the actual figure, no, sir, but I think I can give a fairly accurate estimate.

Q. If you will.

A. In 1941 the total freight revenue of the Atlantic Coast [fol. 3930] Line Railroad was, in round figures, $50,000,000. Of that amount approximately $4,000,000 accrued from the handling of less than carload freight. A large part of the less than carload freight moving on our railroad moves under standard class rates, subject to the classification. We handled about $4,000,000 in that year of miscellaneous and manufactured articles. We are handling at the present time, and we also handled during 1941, a great number of shipments of machinery and contractors' outfits, that are going to contractors who are constructing army camps, air bases, and what-not, on our railroad. I estimate that of our total revenues in 1941, somewhere between 10 per cent and 20 per cent came from traffic moving under the class rates; and that was divided as between carload and less than carload, about 50-50.

By Mr. Scott:

Q. Mr. Doss, I do not know whether I followed you correctly there or not. Did you give $4,000,000 for the less than carload, and another $4,000,000 for the miscellaneous items?

A. Well, I did not count all of the $4,000,000 from less than carload as moving under the class rates. Of course, all of the other traffic was carload traffic, moving under the class rates.

By Chairman Aitchison:

Q. Let me ask you a question also right there. You stated, I believe, that this 10 to 20 per cent of the revenues [fol. 3931] which came from the standard class rates, divided approximately 50-50 as between carload and less than carload.

A. Yes.

Q. Can you tell me also what proportion of that was intraterritorial, and what proportion was interterritorial? Do you have any idea, or any estimate that you can give us, as to that?

A. I would say that probably a little more than half of it was intraterritorial, Mr. Chairman.

Q. A little more than half was intratertitorial?

A. Yes, sir. That would be my judgment, at least, as to the Atlantic Coast Line Railroad.

Chairman Aitchison: Continue.

By Mr. Gwathmey:

Q. Now, Mr. Doss, further with respect to that particular matter, would you consider the Atlantic Coast Line Railroad Company as being typical of the Southern railroads in general?

A. No, sir, I do not believe that I would. The Atlantic Coast Line Railroad serves very largely the coastal plain, and our principal commodities are agricultural commodities. I think further—and this is merely my own personal judgment in the matter, now—that elsewhere in the South there probably is a greater relative movement under the class rates.

[fol. 3932] Q. Has the volume of movement under the class rates proper been affected to any extent by the circumstances under which the various percentage increases in rates have been allowed?

A. Yes, sir. The varying increases that were made under Ex Parte 123 necessitated the establishment of many additional column rates, so-called.

Q. In other words, if I understand you correctly, Mr. Doss, a great deal of the traffic which would have moved under the class rates proper, prior to that time, had to be assigned column ratings because of the varying percentage rate increases; is that correct?

A. Yes, sir.

Q. If the class rates proper should be reduced, would you be concerned about the effect upon your adjustment of commodity rates?

A. Yes, sir; we would be; we would be very vitally affected, as to our commodity rates, if our ceiling on our class rates should be reduced to anything like the Official Territory level. A great deal of our traffic moves at the present time on rates that are somewhere below our present full class rate basis, and if our full class rates were made on the Official Territory level, there would be a very serious effect as to our commodity rates. I might say also in this connection that some calculations were made in connection with the vegetable movement from the Florida East [fol. 3933] Coast. If the Docket 15879 scale were established as the maximum class rate scale from Florida to Official Territory, taking only the vegetables that originated on the Florida East Coast in one season, the revenues under those class rates would be $400,000 less than under the present commodity rates. Now bear in mind that the present commodity rates were established by the Commission on what we thought was a much lower basis than was necessary at the time; but since then, due to truck competition, we have had to reduce those rates approximately 15 per cent; and therefore we have a level of commodity rates on vegetables from Florida which is very subnormal. Yet they would be, as I say, $400,000 per year from the Florida East Coast alone, higher than the class rates would be if the Docket 15879 scale, the full classification basis, were applied.

By Chairman Aitchison:

Q. That $400,000 to which you refer, relates to the divisional proportion received by the Florida East Coast, does it?

A. No, Mr. Chairman; that is the total railroad revenue, from point of origin to point of destination, and I can tell you how that would be broken down, if you would like to have me do so.

Q. No, I do not care about that.

A. All right.

Q. Unless some one else wants it.

[fol. 3934] A. Very well.

By Gwathmey:

Q. Now, Mr. Doss, will you please tell the Commission something about the experience that the Florida railroads have had in the past, when they found themselves with class rates that were lower than the applicable commodity rates on Florida vegetables.

A. Well there was a period about ten years ago when they slipped by the Florida lines a reduction in the classification rating on fresh vegetables, and we woke up one day to find that the class rates were lower than the commodity rates, especially to Official Classification Territory. Our commodity rates were routed, while the class rates were in a tariff that did not have any routing in it, and the shippers would obtain the lower classification by starting a shipment for the North on the Atlantic Coast Line Railroad to Savannah, Georgia, and then get off onto the Seaboard Air Line, and thus claim the class rate. That set up a condition there for one season where nearly all of the shipments moved by unusual routes, which the shippers referred to as "monkey" routes, and it was a very bad situation, and a very disrupting situation. I mention that merely because I think that, even with the approval of the Commission, it is a very difficult matter to carry commodity rates on heavy moving articles of commerce that are higher than the lawful class rates.

[fol. 3935] Q. Turning now to your general statement, Mr. Doss, will you please indicate the particular features of the proceeding with which you wish especially to deal.

A. I wish to deal primarily with the situation affecting rates to and from points in Florida, and particularly that part of the state which lies south of the line of the Seaboard Air Line Railway from Jacksonville, Florida, to Chattahoochee, Florida, commonly referred to as the "Florida peninsula."

The position of the Southern Governors Rate Conference, as I understand it, is that the rates within the South, including the Florida peninsula, and between points in the South, on the one hand, and points in all other territories east of the Mississippi River, on the other hand, should be placed upon a uniform level which should be the same as that to be operated in the lowest rated territory, whatever that level may be.

It will be my purpose, dealing particularly with the Florida peninsula, to briefly state why the rates to and from that section have heretofore been made somewhat higher than rates to and from other Southern states, and why, in my best judgment, there is no reasonable possibility of any substantial change in the relative situation at the close of the war now in progress, and, consequently, no occasion for any change in past practices in regard to rate [fol. 3936] policies.

Q. Are you testifying particularly in respect to the Florida situation on behalf of railroads other than the Atlantic Coast Line Railroad, as well as the Coast Line?

A. Yes. I have discussed the matter fully with the Chief Freight Traffic Officers of the Seaboard Air Line Railway and the Florida East Coast Railway and they have, in fact, reviewed my testimony and concur in it; and I have been authorized by them, particularly in respect to what I will have to say regarding the Florida situation, to speak also for them.

Q. Please describe briefly the location of the three railroads for which you are speaking?

A. The Atlantic Coast Line Railroad operates over 5,000 miles of road extending from Norfolk and Richmond, Virginia, on the north, to Tampa, St. Petersburg, Fort Myers, Naples, Everglades and Lake Harbor, Florida, on the south, most of its mileage being in the coastal region contiguous to the Atlantic Ocean, with branch lines extending as far west as August, Georgia, and Montgomery, Alabama. Over 2,000 miles of its tracks are in the State of Florida.

The Seaboard Air Line Railway operates 4,235 miles of road, extending from Norfolk and Richmond, Virginia, on the north, to Chattahoochee, St. Petersburg, Venice, South Boca Grande, Naples and Homestead, Florida, on the south, [fol. 3937] most of its mileage likewise being in the Coastal region. The Seaboard also has lines extending west to

Birmingham and Montgomery, Alabama. 1,619 miles of its tracks are in the State of Florida.

The Florida East Coast Railway, with total of 685 miles, operates wholly within the State of Florida, its lines extending from Jacksonville through Miami to Florida City, with a branch line to Lake Harbor on Lake Okeechobee.

Practically all of the railroad service available in the Florida peninsula is performed by the three railroads for which I am speaking, namely, Atlantic Coast Line Railroad, Seaboard Air Line Railway and Florida East Coast Railway.

Q. Are there any conditions existing at the present time that have particularly affected the traffic and revenues of the Florida railroads?

A. Owing to the location of their lines, paralleling the ocean for many hundreds of miles and traversing a flat section ideal for motor truck operations, the three Florida railroads, in recent years, have been extremely vulnerable to the loss of traffic to both water and motor carriers. Practically every pound of freight originating on their railroads has been competitive with water carriers or trucks, or both. These competitive influences have been particularly severe in the Florida peninsula, which has ports [fol. 3938] on both the Atlantic Ocean and the Gulf of Mexico, as well as hard surfaced higliways laid upon a practically flat surface.

All of the coastwise steamer lines which operated between the Southern ports, including the Florida ports, and the East have temporarily suspended operation because of war conditions. While a large amount of traffic especially perishable freight, is still moving from and to Florida by truck, the gasoline rationing, the rubber shortage and the federal limitation upon speed of trucks will no doubt increasingly tend to limit the trucking of Florida traffic as long as the present regulations remain in effect. We have every reason to anticipate, however, that when the war has ended competition of other forms of transportation which the railroads must meet will no doubt be as severe as ever.

As a result of temporary conditions with which everyone is familiar, a large volume of import and export freight has been moving between the South Florida ports and points in the North and East which in normal times has moved mainly through the North Atlantic ports, and to a lesser extent thrrough the Gulf ports. Sugar, black-strap

molasses, coffee, manganese ore, bananas, and other commodities have moved in large quantities to the East through the south Florida ports. Import and export rates have been established from and to the south Florida ports to care [fol. 3939] for these new movements, and, in making these rates, the addition of Florida arbitraries has not even been considered. When the submarine menace has been removed this business will undoubtedly be restored to its normal channels and will again be handled through the North Atlantic ports.

There has also been an important all-rail movement of petroleum and petroleum products from Louisiana and points west thereof into the Florida peninsula, but this movement will be discontinued with the completion of pipe lines now under construction or with the return of water service.

The Florida railroads cannot reasonably expect to retain permanently the traffic which I have just described and which has greatly contributed to their earnings in the recent past.

In the interest of national defense there have been constructed in Florida a large number of Government projects. The railroads participating in the transportation of materials to these projects have been benefited from the handling of the new traffic created by their construction. The great preponderance of this new business has consisted of crushed stone, asphalt, lumber, iron and steel and other construction materials. The amount of freight which will continue to move during the war period after the construction of these projects has been completed is not known, but its volume will certainly diminish greatly.

[fol. 3940] The projects to which I refer, include army camps, air bases and auxiliary air fields. How many of them will be continued in use after the war is not now known, but, in any event, it appears to be certain that the amount of freight which the railroads will have opportunity to handle in serving them must continue to diminish or disappear entirely when hostilities have ceased.

Furthermore, looking to the time when air freight service may become an important factor in transportation, it reasonably may be anticipated that these same air bases now being built in Florida, which have served to increase our freight revenues during the period of construction, will,

after the war, provide one of the means of establishing an additional mode of transportation, thus bringing into an already crowded field another potent competitor of the railroads.

With the possible exception of shipbuilding plants at Tampa, I know of no war industries which have been established in peninsular Florida and which might be continued in production or converted to peace time industries after the war.

The gross revenues of the Florida railroads have shown substantial increases in recent months because of the temporary diminution of the competition which they normally face and because of their opportunity to handle large amounts of traffic, the permanency of which cannot be ex- [fol. 3941] pected. I believe this statement is true to a large extent as to the railroads operating in the other Southern states.

Q. Much of the traffic which is moving in connection with the defense projects to which you have referred is subject to land grant deductions, is it not?

A. The preponderance of the traffic moving in connection with the Government projects to which I have referred is under Government bills of lading and is subject to land grant deductions. Neither the Atlantic Coast Line Railroad nor Florida East Coast Railway operates any land grant railroad, but a large part of the Seaboard's Florida mileage is land grant. Other important railroads in the Southeast are land grant and, under the equalization agreements which have been made by all of the Southern railroads, the lowest net rate applicable via any land grant railroad is equalized by the other railroads participating in the movement. This has resulted in the railroads receiving much lower gross revenues on the preponderance of the traffic which they have handled in connection with these Government projects than they would have received under their normal freight rates which are applied on all traffic not subject to land grant deductions.

Q. Much has been said in this record about the industrial development of Florida having been retarded by reason of freight rates. Please briefly describe the character of traffic which is principally produced in Florida and which [fol. 3942] finds a market in other states.

A. Florida is essentially an agricultural state. Its principal agricultural products are citrus fruits and vegetables

which are sold throughout the country, and especially in the large Eastern markets. There are three producing sections in the United States for citrus fruit; Florida, Texas and Arizona-California. Climatic conditions make it impossible to produce such fruit farther north, and comparisons with the destination territory rate level would be meaningless. Florida is nearer the large Eastern markets than either Texas or California, and its citrus producers enjoy much lower rates than Texas and California producers to New York and other Eastern cities. At Mid-Western markets such as Chicago and St. Louis, Florida and Texas are about on a rate parity, the rates from both of these sections being lower than from California. The railroads which serve Florida have always been and continue to be zealous to assure the Florida citrus producers rates reasonably related to those from other producing sections. Competition with truck-boats and overland trucks also has greatly depressed the normal level of the Florida citrus fruit rates.

Florida vegetables come into the market at a season when production in the North is impossible, their main competition in the Northern markets being with vegetables produced in other states bordering on the Gulf of Mexico and in the far [fol. 3943] West. As in the case of citrus fruit, the destination rate level means nothing so far as Florida vegetables may be concerned. I may add that for the purpose of meeting truck competition the Florida railroads and their connections have voluntarily reduced their rates on vegetables considerably below the maximum levels found reasonable by the Commission.

Aside from agriculture the largest single industry in Florida is the production of phosphate rock, the principal use of which is in the manufacture by acidification with sulphuric acid of superphosphate, an important fertilizer ingredient. Practically the entire production of phosphate rock in the United States is in Florida and Tennessee, the Florida production being much the larger of the two. In normal times there is a large export movement by rail through the Florida ports which has been largely discontinued teporarily due to war conditions. For a number of years prior to the war in which we are now engaged the movement to Northern and Eastern domestic markets was almost exclusively by short rail hauls to nearby Florida ports and by water beyond. During normal times the rates maintained by the water carriers from the Florida ports

to the North Atlantic ports, including those at Hampton Roads, and to Gulf ports have been so low as to preclude any substantial participation in the movement by the all-rail routes. However, the railroads which would participate in the all-rail movement have kept in constant touch with [fol. 3944] the situation and from time to time have established such reduced all-rail rates as would enable them to profitably participate in a larger share of the traffic. More recently, and because of the interference with water transportation by war conditions, there has been an increased all-rail movement to interstate points. Phosphate rock moves via all-rail on commodity rates which are in no way related to the class rates and no Florida arbitrary as such is included in them.

There is a plant in South Florida which manufactures superphosphate by the acidification of phosphate rock with sulphuric acid. The product is shipped to points in Florida and other Southern states and to points in Official, including Illinois Freight Association Territory. The rates to both Southern and Northern destinations are based upon a distance scale prescribed by the Commission, except that for distances up to 390 miles the scale has been reduced for the purpose of meeting truck competition. The basis for the rates from the South Florida producing points is identical with that observed in making rates from other superphosphate producing points in the South, no Florida arbitrary being added.

There is also a substantial production of canned fruits and canned vegetables in Florida, the great preponderance of which consists of canned citrus fruit and juice. The prin- [fol. 3945] cipal rail movement of these commodities is under rates which have been below the normal level in order to meet truck or truck-boat competition and in which there is, of course, no Florida arbitrary.

The lumber industry is important in Florida. The through rates on lumber to the North and East are not related to class rates. Aside from the fact that some of the types of timber grown in Florida are not grown in the Northern states, the through rates on lumber from Florida to the Northern and Eastern markets compare favorably with the destination territory level, and these rates are not related to the class rates nor do they contain any Florida arbitrary.

There is in South Florida, a large production of raw sugar which is manufactured from Florida-grown cane. Practically all of this sugar is shipped by rail out of the state to be refined under special commodity rates which were not made in relation to the class rates and contain no Florida arbitrary. The sugar mills also produce large quantities of blackstrap molasses which have been shipped to consumers in the South and North on rates which, as a rule, are not in any way related to the class rates and contain no Florida arbitraries.

There is a considerable production of naval stores in Florida. The bulk of the movement is to concentration points, particularly Jacksonville, by truck or by rail on [fol. 3946] gathering rates. No large movement takes place from Florida peninsula origins to distant destinations. There are, however, in the Northern portion of the Florida peninsula reduction plants where naval stores are distilled from pine light wood consisting of stumps, roots, branches, etc. The products of these plants are shipped to destinations in the South and in Official Territory at rates based upon percentages of first class which have general application from points in the South, the Florida arbitraries having been eliminated.

There are no other industries in the peninsula of Florida which produce goods in important volume for shipment to the North and East.

Q. Are there matters other than freight rates which have an important bearing upon the industrial development of Florida?

A. In my opinion, Florida can never hope to add a great industrial development to its predominant position as an agricultural state, primarily because it does not possess the basic raw materials necessary for that type of development. Moreover, the geographical location of Florida in relation to points at which raw materials and fuel could be obtained and in relation to the large consuming centers of population is such that manufacturers located in Florida could not bring in raw materials for long distances, manufacture them into finished products and ship the finished [fol. 3947] products for long distances to consuming centers in competition with manufacturers possessing the advantages of a location nearer to both raw materials and consuming centers.

Florida has no coal mines and hauls of great length would be necessary in order that coal might be shipped to that state for fuel use. The land is largely level and there are no streams suitable for the production of electric power. The fuel principally used for heating large buildings and for producing power consists of fuel oil which has been moving by water to the Florida ports and thence by rail or truck to points in the interior.

[fol. 3948] Contrast the situation in Florida with that in the Birmingham, Alabama, district, for example, where there exist in the immediate vicinity great deposits of raw materials and fuel used by its manufacturing enterprises. Almost every industrial center of importance possesses natural advantages similar at least in some respects to those existing in the Birmingham district and without which no area can expect any great expansion along industrial lines.

The principal cities of Florida are located on the Atlantic and Gulf Coasts and have had the benefit of water service until it was interrupted as result of the present war. After the termination of the war, water service with its lower rates will again be available to and from the Florida ports. Since the principal Florida cities have heretofore had available to them low transportation costs in connection with both the inbound movement of raw materials from the principal sources of such raw materials, as well as similar benefits in connection with the movement of manufactured products to the principal markets of this country, it cannot be said that Florida's failure to becoming a manufacturing center is attributable to the lack of low transportation costs.

I may point out in this connection that, for reasons which I have suggested, industrial development in those portions of other Southern states which border on the Atlantic Ocean [fol. 3949] is far behind that of the interior sections of the same states. The Florida peninsula is all coastal region and the industrial situation follows the usual pattern.

I wish to say, however, that the Florida railroads stand ready to afford necessary freight rate adjustments for any industry which may desire to locate at any point which they reach.

Q. Do the conditions which have heretofore been recognized as justifying a somewhat higher level of rates in the Florida peninsula than in other portions of the South continue to exist at the present time?

A. Yes, I think so. The State of Florida is surrounded by water, except on the north. With the exception of a certain amount of Cuban traffic which has moved by car ferry between Port Everglades, Florida, and Cuba, there has been and can be, in normal times, no overhead rail business passing through the peninsula of Florida.

The natural conditions which have brought about the relatively low traffic density on the railroads in South Florida are unlikely to change and the relativity with other Southern states cannot be affected no matter how much or how little of the total available traffic the railroads may be able to hold against the severe competition which is inevitable in the post war period.

Witnesses for complainants testifying in regard to the [fol. 3950] Florida rate situation have pointed out that the state is almost completely surrounded by water, with many deep water ports and with comparatively short truck hauls between the ports and the interior of the state. Some of them have stated their conclusion, in effect, that the physical situation has made the continuance of the Florida arbitraries impracticable, and that the maintenance from and to the Florida peninsula of relatively high rates has diverted to other transportation agencies a large volume of tonnage which might otherwise have moved by rail. A more detailed rebuttal of their testimony will be presented by other witnesses, but I wish to say at this point that under normal transportation conditions water carriers in coastwise service virtually monopolize the handling of business between points along the Atlantic Coast located on navigable water, and that the situation in the peninsula of Florida does not differ substantially in that respect from that in Virginia, North and South Carolina and Georgia. For the purpose of meeting that competition the elimination of the Florida arbitraries would not have the slightest effect.

The coastwise steamship lines are able to maintain a level of rates which is lower as a rule, distance considered, than the level of rail rates between points in Official Territory, and, where the all-rail routes have endeavored by rate reductions to share in the transportation of the traffic, those [fol. 3951] efforts have generally been futile.

In addition, I wish to say that through a long period of years the great preponderance of the movement of manufactured products from Eastern cities to the Southern ports and to a large part of interior Southern territory, and in

the opposite direction, has been through the Southern ports either by water and rail or water and truck. This is likewise true as to the important movements from interior Northern manufacturing points to Southern ports and the important movements between interior Eastern points, on the one hand, and interior Southern points, on the other, in connection with the water carriers.

The water carriers have seen to it that their port to port rates have been kept low enough to preclude for all practical purposes the participation of the railroads in this traffic.

So far as competition with overland trucks is concerned, the situation in Florida is little different from that in other parts of the country. I do not think that as to interstate traffic between Florida, on the one hand, and the remainder of the United States, on the other, the situation is affected one way or the other by reason of the existence of the Florida arbitraries. Any difference resulting from the addition of the Florida arbitraries is, in the main, more than off-set by the longer hauls involved on traffic moving to and from [fol. 3952] Florida. Our merchandise traffic to and from points in the South, other than Florida, is subject to intense competition with the trucks and it is my observation that substantially the same situation exists in Official Territory where the level of class rates is said to be lower than in the South and particularly to and from Florida.

The Atlantic Coast Line Railroad originated or terminated on all of its lines, during the calendar year 1928, 900,812 tons and, in the calendar year 1941, 534,580 tons of less carload freight, or a decrease of 40.7 per cent. It originated or terminated in the State of Florida, in 1928, 209,383 tons and, in 1941, 139,165 tons, or a reduction of only 33.5 per cent. In other words, even including the lesser Florida decreases along with the remainder of the system, the decrease for the entire system was 7.2 percentage points greater than for Florida alone.

Q. Mr. Doss, you are undertaking to show by this testimony, as I understand it, that the conditions as exist today justify the continuance of the Florida arbitrary as much as they did when the arbitrary was originally allowed by the Commission, is that right?

A. That is right.

Q. And the balance of your statement in answer to my last question is directed to that point, is it not?

A. Yes, sir.

[fol. 3953] Mr. Gwathmey: We will ask that the remainder of that statement be copied, Mr. Chairman, down to my question 10.

Chairman Aitchison: It may be copied.

(Which statement is as follows:)

The Seaboard Air Line Railway originated or terminated on its entire system, during the year 1929, 982,171 tons and, during the year 1941, 551,844 tons of less carload freight, or a reduction of 44 per cent; while in Florida it originated or terminated, in 1929, 220,012 tons and, in 1941, 138,777 tons, or a reduction of only 37 per cent.

The Florida East Coast, which operates wholly within the State of Florida, originated or terminated, in 1928, 82,405 tons and, in 1941, 65,514 tons of less carload freight, or a decrease of only 20.5 per cent.

It definitely appears from these figures that, although there was a substantial falling off of less carload traffic between 1928 and 1941, the loss in Florida was not nearly so great relatively as at points in the other states served by the Coast Line and Seaboard.

The fact that the competitive situation in Florida is somewhat aggravated, in comparison with the remainder of the South, by reason of the geographical location and shape of the state, as pointed out by previous witnesses, has only served to contribute to the low traffic density of the state. Florida railroads, in order to meet their revenue necessi- [fol. 3954] ties unquestionably need to retain a level of rates at least as high as that now in effect on that part of the state's tonnage which has heretofore and will continue to be transported by rail.

During the period when the Southern Class Rate Investigation, I. C. C. Docket 13494, was under consideration, the Florida roads were enjoying a brief period of unprecedented prosperity as result of the Florida boom. That bubble, however, burst. Freight tonnage and passenger traffic alike declined. During the depression period two of the three principal railroads which serve the Florida peninsula encountered financial difficulties and both of them have been in receivership for some ten years or more. Again today, as result of the suspension of coastwise steamship service because of the war conditions, and the movement of import and export freight from and to the Florida ports through

which little of it has ever moved under normal conditions, the revenues of the Florida railroads have improved.

By Mr. Gwathmey:

Q. Have the Florida railroads at all times been alert to give due consideration to claims of shippers and industries that rate reductions are needed in order to enable them to do business in the state?

A. Yes. I do not think that the Florida railroads have been blind to their own interests or to the best interests of their shipers. They have not undertaken to deny to Florida [fol. 3955] producers of any traffic the benefit of rates needed to enable them to compete in distant markets, nor will they do so.

The Florida railroads maintain separate industrial departments whose exclusive function is to assist and encourage industrial development in every legitimate way in the territory which they serve. Whenever during the course of negotiations leading up to the possible development of an industrial project any question of rates is raised, it receives immediate and earnest consideration by traffic officers charged with the duty of dealing with such problems.

I have read the evidence given by Dr. Eutsler, of the University of Florida, and other witnesses who have testified in regard to Florida rates, but I am prepared to state unequivocally that in nearly thirty years service with the Coast Line I have never known of an instance where a new industry would otherwise have located in Florida but failed to do so because of any insurmountable impediment arising from unfavorable freight rates.

So far as concerns the almost identical statements made by witnesses Maurer, Donnell and Grady that the shippers, and particularly small manufacturing plants, with which they come in contact have continuously complained to them with respect to the class rates, our records have been searched in vain for any reference to these many complaints and it seems to me rather strange that these gentlemen, who [fol. 3956] say they are in the business of furnishing traffic service to shippers, failed to pass the complaints on to the traffic officers of the offending railroads. We have not received from the shippers any complaints of the character described by these gentlemen. The fact of the matter is that all of the agitation for reductions in the level of the class rates, both to and from Florida as well as to and from

the South, which has come to my attention originated with someone else than actual shippers, receivers or manufacturers, large or small.

The Southern railroads, including those which serve Florida, have always been willing to voluntarily afford their shippers the benefit of rates necessary to enable them to market their products, and so far as they are concerned they expect to continue this policy.

I have read the testimony offered by Governor Holland at the Indianapolis hearing, and noticed that he mentions with gratitude the action of the Interstate Commerce Commission in recently prescribing rates on livestock from Florida to the North without the imposition of any Florida arbitraries. As a matter of fact and as the Commission knows, this was a voluntary concession on the part of the Florida railroads, whose witnesses in the hearings stated for the record their willingness to waive the arbitraries in order that Florida producers of livestock might ship either to the [fol. 3957] South or the North on a relative equality, distance considered, with producers in other Southern states.

Without reflecting upon anyone's sincerity, I wish to express the conviction of the Florida railroads that all of this agitation about the Florida arbitraries is based upon purely theoretical grounds. If the railroads believed that the observance of these arbitraries was actually detrimental to the industrial development of the state they unquestionably would be in favor of their immediate abolishment.

The maintenance of the peninsula arbitraries is of importance to the Florida railroads because when the war has ended they will unquestionably be badly in need of every penny they can earn.

Q. Have you read the testimony of Mr. Eric Morrell, Editor and Director of Research and Statistics, Manufacturers Record, Baltimore, and, if so, do you wish to make any comment thereon?

A. Yes, I have read Mr. Morrell's testimony and I wish to say that for many years the Atlantic Coast Line Railroad has been a patron of the Manufacturers Record as a subscriber to and an advertiser in its monthly publication, as well as a purchaser and distributor of its annual publication, "The Blue Book of Southern Progress."

In all our years of friendly relationship with that publication it has never raised the question with us of unfavorable [fol. 3958] freight rates as militating against the location

of industries in our territory. On the other hand, the Manufacturers Record has consistently taken the position that the Southern territory affords unlimited industrial opportunities. Moreover, several years ago, when the South was referred to as the Nation's Economic Problem No. 1, the Manufacturers Record sharply condemned the use of that term as applied to the South and took the position that the South should be regarded as the Nation's No. 1 opportunity.

During all of these years the Manufacturers Record has referred to the Atlantic Coast Line but a few specific inquiries from manufacturers who were considering locating plants in the South. During the three year period, 1939 to 1941, inclusive, the Manufacturers Record put the Atlantic Coast Line in touch with only one such manufacturer. He operates a small furniture manufacturing plant in Wisconsin and expressed interest in building a plant somewhere in the South in order to enable him to better meet his competition. The manufacturer did not pursue the matter to the extent of inspecting available sites and nothing has come of the inquiry. On the other occasion the Manufacturers Record wrote the Atlantic Coast Line for industrial information for transmittal to an industry which was considering locating in the South, but it declined to furnish us the name of the industry or in what particular business it was engaged and, so far as I know, nothing ever developed [fol. 3959] from that inquiry.

Q. What have you to say regarding the average revenue per ton mile of the Southern Region as compared with the Eastern District?

A. While I think it may be conceded that the general level of class rates in the South, including the rates to, from and between points in Florida, is somewhat higher than the level of rates within Official Territory, the average revenue per ton mile in Southern Region in 1939, as pointed out by Witness Kerr, was 10.15 mills and in the Eastern District 10.30 mills, or fractionally higher than the South. The average hauls in the South are longer and, as the rates for longer hauls are generally less per mile than for shorter hauls, it requires a higher general level of rates in the South than in Official Territory to afford the Southern roads the same per ton mile revenues as those of the Official Territory roads.

From my reading of the testimony of the complainants it appears that they are under the impression, or at least they have endeavored by their testimony to leave the impression, that the Southern roads are obtaining higher per ton per mill earnings out of the present class rate traffic and particularly the interterritorial traffic between the South and Official Territory than are the roads in Official Territory.

Of course, I appreciate that the divisions of the interterritorial rates are not at issue in this proceeding but [fol. 3960] the test as to whether an individual railroad can profitably operate a given level of rates depends very largely upon the proportions which it receives in dividing the joint rates. The divisions between the South, including Florida, on the one hand, and Official Territory, on the other, were fixed by the Commission in Docket 24160. The first class rate from Miami, Florida, to Chicago, Illinois, for example, is 333 cents, the Southern haul to the gateway, Evansville, Indiana, being 1,126 miles and the Official Territory haul beyond 283 miles, total distance 1,409 miles. The divisions of the 333 cent first class rate prescribed by the Commission allow the Southern roads to Evansville 75 per cent, or 249.6 cents, and the Official Territory roads beyond 25 per cent, or 83.4 cents. These divisions, including the Florida arbitrary in the proportion of the Southern roads, pay the Southern roads from Miami to Evansville 44 mills per ton per mile and the Official Territory roads beyond 59 mills per ton per mile.

If the Official Territory rate level be extended so as to apply from Miami to Chicago the first class rate would become 229 cents and, under the Commission's decision in Docket 24160, would divide according to the contention of the Official Territory roads not as the present rate divides, that is, to Evansville 75 per cent beyong 25 per cent, but upon the equal factors basis which yields to Evansville 68 [fol. 3961] per cent, beyond 32 per cent, resulting in 155.7 cents to Evansville and 73.3 cents beyond. These proportions, respectively, would pay the Southern roads 27.5 mills per ton per mile and the Northern roads 52 mills per ton per mile. If, in subdividing, the Florida roads from Miami to Jacksonville be allowed the same per ton per mile as the Official Territory roads, and surely they are entitled to more than this, the proportion to Jacksonville would be 95.2 cents, leaving only 60.5 cents, Jacksonville to Evans-

ville, which, for the distance 776 miles, would yield only 15.6 mills per ton per mile.

If the rates from Miami to Chicago be divided with Evansville on short line mileage prorate the percentages would be to Evansville 80, beyond 20.

It is certain that, so long as the freight rates are made upon basis of a mileage scale in which the rate per mile decreases with the increased haul, it inevitably follows that, since the average hauls in the South are much longer than in Official Territory, it will require a higher level of rates in the South than in Official Territory in order to provide the Southern roads with per ton mile revenues equal to those of the roads in Official Territory; and I wish to emphasize that this condition is compounded in the case of interterritorial rates between the South and Official Territory as to which traffic the average hauls in the South are [fol. 3962] longer than in Official Territory because here again the divisional factors upon which the divisions are based likewise diminish per mile as the haul increases. For example, the divisional factors for the Southern roads are for 400 miles 159 and for 800 miles 236. In other words, the factor for 800 miles instead of being double that for 400 miles is only 42 per cent greater.

Q. Does that complete your statement, Mr. Doss?

A. Yes, sir.

Mr. Gwathmey: The witness is offered for cross-examination.

Cross-examination.

By Mr. Norman:

Q. Mr. Doss, you made the statement that it must be conceded that the class rates in the South are somewhat higher than they are in Official Territory. Have you any considered judgment as to how much they are higher, actually, now, in view of the many reductions and exceptions to the Classification and so forth?

A. Your are referring, of course, to the class rates?

Q. Yes.

A. My own idea would be that the establishment of the recent exceptions to the classification have been made in both territories and interterritorially, and I don't know that that would have had very great change in the situation that originally existed.

[fol. 3963] Q. In the relative situation?

A. That is right.

Q. So that you couldn't give any estimate of the effect on revenues, assuming that same movement of traffic that would result from applying the Official Classification rates and ratings on your line?

A. My guess would be that notwithstanding the adoption of many exceptions, that relatively it would be about the same.

Q. About the same as what?

A. About the same as it existed when the original class rates were established.

Q. I know, but what I asked you is, can you make any estimate of the effect on the revenues of the Atlantic Coast Line Railroad by applying the present ratings and exceptions, and so forth, as they apply in Official Territory?

A. Oh, it would be tremendous; it would reduce our revenues terrifically.

Q. How do you arrive at that? I believe you said that about 20 per cent of your traffic, you thought, moved on class rates.

A. Somewhere between 10 and 20.

Q. Yes. Well, suppose that the reduction was as much as 20 per cent, over all, in the class rates. That would be a 20 per cent reduction on, say 10 per cent of your traffic. You can arrive that way at something approximating what [fol. 3964] it means to you, can't you?

A. Yes, on that particular traffic, the reduction, of course, would apply to only some 10 or 20 per cent of our revenue.

Q. Yes.

A. That would be bad, but that isn't the worst of it. As I pointed out, in taking our vegetable movement from Florida, why, on the total movement from Florida, in a season, if we had to observe the 15879, with a full classification rating, it would reduce the revenues of all the railroads participating somewhere in the neighborhood of a million dollars just on vegetables alone. That doesn't mention thousands of other commodities.

Q. It doesn't now move on class rates?

A. No, it doesn't move on class rates at all.

Q. And you are assuming, though, that if the Commission should prescribe new ratings and a parity of rates, that it would put these fresh vegetables in the same class that they are in Official Territory now?

A. If you had a commodity rate of 80 cents today and you established a class rate of 50 cents, we would be in the hole, you know.

Q. Undoubtedly that is true, but my point is, it doesn't necessarily follow, even if the parity of rates were prescribed here, that on that particular traffic there would be such a change that it would cost you any loss of revenues? [fol. 3965] A. The reduction in the class rates as of a certain day wouldn't affect commodities, but it wouldn't be but a few days until they would be affected.

Q. Now, you stated that you didn't know of any complaint about your class rates, and you severely criticized certain gentlemen that they knew about complaints when they hadn't told you about it. Have you ever heard of the complaint of the Jacksonville Traffic Bureau, I believe it is?

A. Heard of their complaint?

Q. Yes.

A. Well, I don't—yes, I have heard of it.

Q. It has been actually filed with the Interstate Commerce Commission.

A. Yes, sir, I have heard of it.

Q. Then what do you mean by saying that you hadn't heard of any such complaints?

A. I said no shipper complained to us nor had the Traffic Bureau complained to us about our class rates.

Q. Now, those articles on which the rates are attacked all move on class rates, don't they, so they are attacking your class rates in the Jacksonville case.

A. Undoubtedly they are attacking them here, but what I told you about their handling with me is correct.

Q. Now, you also state that you voluntarily agreed to the removal of the arbitraries on the livestock. Now, isn't it [fol. 3966] true that you agreed to them, to the elimination of the arbitraries northbound but didn't agree to them southbound, and when the Commission's decision came out removing them in both directions, that you filed exceptions to it?

A. We did not agree to it and I didn't say we agreed to it southbound. We did agree to take the arbitraries off northbound so that Florida could ship into the South and the North on an equality, distance considered, with the other shippers.

Q. You did refer to that fact but you didn't refer to the other fact that you did agree to it and are now complaining because the Commission did remove them?

A. I don't mind referring to it because we honestly believe that the rates into Florida ought to be on a higher level.

Mr. Norman: That is all.

Chairman Aitchison: Any further cross-examination? (No response.) You are excused, Mr. Doss.

(Witness excused.)

Chairman Aitchison: We will take a little recess at this time, gentlemen.

(Recess taken.)

Chairman Aitchison: Come to order.

Mr. Grubbs: Mr. Boyle, will you take the stand, please. Mr. Boyle was sworn at the other place.

R. E. Boyle, Jr., recalled:

[fol. 3967] Direct examination.

By Mr. Grubbs:

Q. Mr. Boyle, you are the same Mr. Boyle who has heretofore testified in this case?

A. Yes.

Q. Are you familiar with the testimony that was given by Mr. Morrell, Editor of the Manufacturers Record?

A. I am.

Q. Have you conducted an investigation amongst all Class I railroads to determine the extent to which Mr. Morrell or his publication has contacted Southern railroads, Class I Southern railroads; looking to the location of new industries on the lines of such carriers?

A. Yes, I have.

Q. What period was covered by your investigation?

A. A period of three years, 1939, 1940 and 1941.

Q. How many such contacts did your investigation disclose?

A. Two.

Q. What kind of contemplated industries were they?

A. One of these contacts was in October, 1939, concerning a woodworking and upholstering plant, presumably a furni-

ture plant. The other, in February of 1941, merely referred to a large plant but did not divulge the nature of the business.

Q. How many times have such contacts resulted in location of industries?

A. Not any.

[fol. 3968] Q. Did you undertake to ascertain whether the failure to locate in the South, following tips received from Mr. Morrell and his publication, was due to freight rate difficulties?

A. Yes, I did.

Q. What did you develop on that subject?

A. I developed that in no instance did an industry conclude not to locate in the South because of freight rate difficulties.

Q. Did you undertake to ascertain the extent to which Mr. Morrell or his publication had taken up with the railroads in the South, that is, Class I railroads, the desirability of some readjustment in rates to meet the needs of some prospective new manufacturer for the South?

A. Yes.

Q. What did you develop on that subject?

A. If anyone connected with the Manufacturers Record has taken up with any Southern line the need or desirability of readjustment of rates to meet the needs of prospective industry during the three years, 1939, 1940 and 1941, there is no record or memory of it.

Q. Did you undertake to develop how many new industries were located on Class I Southern railroads during the period covered by your investigation?

A. Yes, I did. During this three-year period—I might say that the responses to our questionnaire were not com-

[fol. 3969] plete in that respect. Of the 17 railroads addressed, only 9 gave the information and 8 did not.

Q. That is, the information as to the number of new industries located in that period?

A. Yes. The nine railroads making the report stated that in the three-year period, a total of 1,110 new industries were located.

Q. Is there anything you wish to add to that?

A. No, I believe not.

Q. There was just one further question I wanted to ask you: When you testified in Indianapolis, you answered a question from the Bench, substantially in this language, that,

"exceptions are the classification." Now, there might appear to be some conflict in that testimony and the testimony which has been given here today. I want to ask you simply this: Did you intend, by that statement, to mean or did you use that in an absolute or strict sense, that language, I mean?

A. I didn't intend to use it in an absolute or a strict sense. Upon reflection, perhaps it was a poor choice of language. While it is true that a preponderance of all freight from, to and within Southern Territory moves on commodity rates or exceptions, yet there is a very important tonnage that moves on the Southern Classification proper.

I say that for several reasons. In the first place, we receive constant applications for additions to the classifi- [fol. 3970]. fication, for changes in the classification. Further, our exceptions contain about some 3200 less than carload ratings. In the classification proper there are a little more than 10,000, so that the exceptions roughly embrace about one-third of all the less than carload ratings. Now, as to carloads, perhaps there is not more than 1,000 exceptions ratings, leaving the great body of articles on the classification, on which there obviously is a movement; such things as machinery of various kinds and, I believe, hardware.

Q. I don't think it is necessary to go into that.

A. And I could name others, but the movement under the classification is an important traffic.

Mr. Grubbs: The witness is tendered for cross-examination.

By Chairman Aitchison:

Q. Do you think you can answer the questions which I asked Mr. Oliver with respect to the lines which are members of your bureau or association?

The Witness: Will you read that question?

(Question read.)

The Witness: No, I cannot answer those questions, Mr. Chairman, because I have no idea of what per cent or what volume, in tons or dollars, moves on the classification, as compared with the total.

Q. At the Indianapolis hearing, you testified, in answer to a question by Mr. Norman, that you couldn't make changes

[fol. 3971] in the Southern classification without consent of the Official and Western Classification Committees because of interterritorial application of those ratings in the Southern classification, do you remember that?

A. Yes, sir.

Q. Have you any statement, further statement to make in regard to that, in view of subsequent testimony?

A. Yes, sir, I am glad to clear up that apparent conflict. The fact is that several classification committees function substantially as rate committees. It is a majority rule. The changes in the classification were subject to appeal by the minority; and briefly, that is the situation.

Q. Appeal to whom?

A. To the executive officers, I should say. Incidentally, there has never been a great deal, if any, trouble in that respect. Classification falls into one of the classes more naturally than rates, and it is a rare thing that we have any difficulties; but the fact of the matter is that classification changes are subject to acceptance by a majority of the classification committees, and to stop the majority action, the minority must appeal to the executive officers of the railroads.

Q. Well, Mr. Fyfe left the impression, as I recall it, that all that was necessary, if you wanted to change the Southern Classification, was for him to publish a proper tariff and [fol. 3972] file it with the Commission.

A. Well, henceforth when I attend Classification Committee meetings with Mr. Fyfe, I am going to have a copy of that testimony in my hand. If he will abide by it, we will save lots of talk and argument.

Chairman Aitchison: All right. Cross-examine.

Mr. Norman: I just have one question.

Cross-examination.

By Mr. Norman:

Q. You state that you receive hundreds of requests for changes of the Southern Classification?

A. No, I didn't say hundreds.

Q. Well, you said—I thought you did say that.

A. I said we receive constant applications for changes.

Q. They are always asking for a lower classification, are they?

A. I don't recall that we have had applications for increases.

Q. Therefore, it can't be said that you don't have any objections or complaints about the class rates?

Mr. Grubbs: Do you understand the question, Mr. Boyle?

By Mr. Norman:

Q. Because they are asking you to reduce them, aren't they, when they ask you to change the classification?

A. Yes.

Mr. Norman: That is all.

[fol. 3973] The Witness: I want to qualify that by saying that most of our applications have to do with the addition of new articles, new forms of packing and so forth.

Chairman Aitchison: Any further cross-examination? (No response.) Any redirect?

Mr. Grubbs: No redirect.

Chairman Aitchison: You are excused.

(Witness excused.)

Chairman Aitchison: All right, Mr. Crane.

L. V. Crane recalled:

Direct examination.

By Mr. Dixon:

Q. Have you been sworn, Mr. Crane?

A. Yes, sir.

Q. Please state your full name.

A. L. V. Crane.

Q. Are you the same L. V. Crane that testified at the Indianapolis hearing?

A. I am.

Mr. Dixon: Mr. Chairman, Mr. Crane has one exhibit, which will be marked for identification as Exhibit No. —.

Chairman Aitchison: 178.

(Exhibit 178, Witness Crane, marked for identification.)

By Mr. Dixon:

Q. Please proceed, Mr. Crane.

Mr. Norman: Is that exhibit numbered?

[fol. 3974] Chairman Aitchison: 178.

The Witness: My testimony at this time will deal with the presentation made by Mr. Hart. In dealing with the class rate adjustment prescribed in Southern Class Rate Investigation Mr. Hart in Exhibit 90 at page 3 said: "It should be borne in mind that in the Southern Class Rate Investigation in recasting the Southern rate structure and creating a new structure between Southern and Official Territories the Commission was circumscribed, so to speak, by the requirement that the rate structure should not take from or add to the revenues of the carriers." This statement is not supported by the decision in the Southern Class Rate Investigation. As a matter of fact the effect of the rates prescribed in that decision was to reduce the revenues of the carriers.

In my Exhibit No. 178, sheets 1 to 3, inclusive, there are reproduced excerpts from the reports in Southern Class Rate Investigation relating to the rates prescribed for application in Southern Territory, and sheet 4 shows the first class scales recommended in the proposed report and prescribed in the original decision and in the first and second supplemental reports. There is also shown in sheet 4 the scale for distances 190 miles and less which was later prescribed in the North Carolina case and subsequently adopted for general application in Southern Territory.

Mr. Hart admitted in Exhibit No. 90 at page 5 that [fol. 3975] material reductions were made in the large movement from Official Territory to the South. It is also a fact that the rates prescribed did not fully preserve revenues on traffic in the South. I shall later refer to sheets 5 to 9, inclusive, of my Exhibit No. 178, which is a recapitulation of the traffic study for April, 1924, which was submitted by the carriers to the Commission in Southern Class Rate Investigation. These sheets show the revenue on the tonnage covered by the traffic study under the rates then in effect and what the revenue would have been under the rates recommended in the proposed report in Southern Class Rate Investigation. The traffic study shows that the revenues on traffic in the South would have been reduced by the scale

recommended in the proposed report. The scale prescribed in the original decision was higher than the scale recommended in the proposed report for distances 280 miles and over 50 miles and for distances over 620 miles. The excerpt from the original decision, sheet 1 of my exhibit, indicates that this scale would have more than maintained revenues if applied on both interstate and intrastate traffic. However, in the first supplemental decision the scale was reduced for distances 340 miles and over 45 miles and increased for distances 35 miles and less. In the excerpt from the first supplemental decision shown in sheet 2 of my exhibit the Commission said that it was under no obligation to [fol. 3976] maintain revenues from class rates at precisely the then existing level and that its only obligation was to prescribe rates which were reasonable and otherwise lawful. It seems clear the scale prescribed in the first supplemental decision would not have preserved revenues.

In the second supplemental report the scale was increased somewhat for distances over 150 miles but this increase was allowed solely to compensate for the reductions which would result from the change in the method of computing distances. The excerpt from the Commission's decision shown in sheet 3 of my exhibit deals with this situation. The scale prescribed in the second supplemental decision is the one which became effective on January 15th, 1928. However, it should be pointed out that this scale for distances 190 miles and less was later reduced following decision in the North Carolina case. There seems to be no doubt that the scale prescribed for application in the South did not fully preserve revenues even when applied to intrastate as well as interstate traffic.

The reduction in revenue from interterritorial traffic was not as great as that shown in the traffic study for April, 1924, because the proposed revenue shown in that study was based on the rates recommended in the proposed reports, and the rates finally prescribed were not, as a whole, quite as low as those recommended in the proposed report. [fol. 3977] However, there can be no doubt that the reduction in revenue was substantial and this was conceded by Mr. Hart. The Official Territory lines in Southern-Official Divisions Case, Docket No. 24160, presented a traffic study which gives some indication of the percentage reduction in revenue from class rate traffic under the rates prescribed in Southern Class Rate Investigation. That traffic study

covered the movement of class rate traffic for four days in 1927 between Central Freight Association Territory and Southern Territory and for twelve days in 1927 between Eastern Trunk Line and New England Territories and Southern Territory and showed the revenue on basis of the rates in effect January 14, 1928, and on basis of the rates established under Southern Class Rate Investigation which became effective on January 15, 1928. While the traffic study submitted by the Official Territory lines in the Southern-Official Divisions Case showed a volume of traffic when equated to an annual basis which was very much less than that covered by the April, 1924, traffic study in Southern Class Rate Investigation, the result of that study showed a reduction in revenue of 6.28 per cent. The revenue from interterritorial class rate traffic covered by the traffic study for April, 1924, in Southern Class Rate Investigation was $4,988,713.90, and a reduction of 6.28 per cent in this revenue would have amounted to $313,291.23, and this reduction equated to an annual basis would have been [fol. 3978] $3,759,494.76.

In Exhibit No. 90 at page 4 Mr. Hart said: "It is a well-known fact that class rates, i.e., Classes 1 to 6, moved little traffic in the South or from the South to the North at the time of Southern Class Rate Investigation. Therefore, it is obvious that the interterritorial class rates in this case were dealt with solely from the standpoint of southbound class rate traffic."

While the traffic study for April, 1924, in Southern Class Rate Investigation showed that the movement of class rate traffic from the South to the North was small as compared with the movement in the opposite direction or in the South, there is no foundation for Mr. Hart's statement that there was very little movement on classes 1 to 6, inclusive. In the traffic study for April, 1924, in Southern Class Rate Investigation covered by sheets 5 to 9, inclusive, of my exhibit the movement of traffic under each class was shown separately and an examination of these sheets will show that the major portion of the movement fell under classes 1 to 6, inclusive.

In Exhibit No. 90 at pages 5 and 6 Mr. Hart said: "In recasting the Southern class rates and substituting through one-factor class rates to supplant combination rates, both intraterritorially and interterritorially, and in the prescription of uniform class relationships, (lower classes to

[fol. 3979] first class), the Southern classes 1 to 6, (which heretofore moved little traffic), were made relatively high, so as to support the measure of the first class, and lower classes related thereto, prescribed interterritorially, which effected material reductions on the large southbound movement of class traffic by way of the cancellation of innumerable less carload commodity rates in effect generally throughout the South, both intrastate and interstate. For instance, at that time, as an outgrowth of the intrastate rates, there generally applied on interstate traffic low less carload commodity rates on most of the important commodities distributed from the larger Southern jobbing centers. Rates of this character applied on sugar, rice, molasses and syrup, canned goods and many others of the heavier grocery items. All of these less carload commodity rates were subsequently cancelled by virtue of the Commission's findings in the Southern Class Rate Case.

"It is perfectly obvious that had the Commission been testing alone the then existing structure of class rates in the South, as the term 'Class Rates' was then understood, necessarily, consideration would have been given to the lettered class rates that applied quite generally throughout the South, on which most of the carload traffic and a great part of the less carload traffic moved."

What is meant by this statement is not clear to me. [fol. 3980] In so far as the relationship of lower classes to first class is concerned the class percentage relationships prescribed by the Commission in Southern Class Rate Investigation were those proposed by the Southern Traffic League. The Commission said that the class percentage relationships proposed by the Southern Traffic League were devised, after study of all the factors in the problem, to meet certain definite ends, and, among other things, they were designed to aid in the process of eliminating classification exceptions, and less carload commodity rates, and to promote the wider use for carload traffic of what were then, speaking in terms of commodities, the little used lettered classes.

In the statement quoted, Mr. Hart said that the rates prescribed in Southern Class Rate Investigation brought about material reductions on the large southbound movement of class rate traffic from Official Territory to the South, and, this being so, it is not understood what Mr.

Hart meant by saying that the prescription of uniform class relationships (lower classes to first class) the Southern classes 1 to 6 were made relatively high so as to support the measure of the first class rates and lower classes related thereto prescribed interterritorially. This is followed by reference to cancellation of less carload commodity rates in Southern Territory but the connection between these rates and the interterritorial class rates [fol. 3981] is not clear. There was before the Commission in Southern Class Rate Investigation the traffic study for April, 1924, which covered intraterritorial and interterritorial traffic moving under Classes 1 to 6, inclusive, and under classes then designated as A, B, C and D, whether such traffic then moved under class rates, including state classifications and exception sheets, or less carload commodity rates. The traffic study also included carload commodities moving on commodity rates on which the recommended class rates were lower than the then existing commodity rates. The Commission had before it, therefore, full information with respect to the traffic which was affected by the decision in Southern Class Rate Investigation.

In Exhibit No. 90 at pages 8 and 9, Mr. Hart criticized the class rate adjustment prescribed by the Commission in Southern Class Rate Investigation for application between the East and the South.

In Southern Class Rate Investigation the class rates prescribed between Official Territory and the South were made primarily on basis of the Southern Territory scale for the hauls south of the gateways, plus scales of differentials for the hauls north of the gateways, but between the East and the South key rates were prescribed which, on the whole, were lower than they would have been if they had been made on the general basis mentioned. The reason for this was the influence of the water-rail routes. Mr. [fol. 3982] Hart said that this plan of making the rates was a fundamental error.

In order that this situation may be understood I have reproduced in sheets 10, 11 and 12 of my Exhibit No. 178 excerpts from the Commission's reports in Southern Class Rate Investigation relating to the rates between the East and the South. The Commission decided that these rates should be determined with regard to the reasonably direct

routes wholly by rail and to the reasonably direct routes partly by water.

Following the original decision the carriers suggested the advisability of making the all-rail rates between the East and the South without regard to the water-rail routes and then fix the water-rail rates by deducting differentials from the all-rail rates. The Commission was unwilling to follow this plan and prescribed a level of rates having regard for both the all-rail and water-rail routes and as the Commission said, the rates so prescribed "were in some instances not so high and in others not so low as they would have been if the routes had been independently considered." In other words the all-rail rates between the East and the South were made somewhat lower than they would have been if they had been constructed independent of the rates via the water-rail routes.

Mr. Hart mentioned that the prescription of key rates between the East and the South made necessary large origin and destination groups. The mere statement of [fol. 3983] this fact does not indicate that the adjustment is improper or unlawful. The necessity for these groupings was fully explained in the Commission's reports.

Mr. Hart also criticized the adjustment between the East and the South, because the rates on some commodities are related to constructive first class rates rather than the going first class rates. These constructive first class rates reflect the general basis which was prescribed between Official Territory and the South, namely, the Southern Territory scale for the hauls south of the gateways, plus differentials for the hauls north of the gateways.

[fol. 3984] These constructive first class rates were employed where the water-rail routes were not a factor in handling the traffic. One of the earlier cases in which the Commission authorized the use of constructive first class rates was in connection with rates on peaches from Georgia and the Carolinas to the East in Georgia Peach Growers Exchange versus A. G. S. Railroad Company, 139 I. C. C. 143; 148 I. C. C. 755. This was later commented upon by the Commission in the Citrus Case—Florida Railroad Commissioners versus A. & R. Railroad Company, 144 I. C. C. 603, where the Commission also authorized the use of constructive first class rates in connection with rates on citrus fruit from Florida points to the East. The Commission

there pointed out that the rates on peaches to Trunk Line and New England Territories were not based upon the actual first class rates, because the class rates were made lower than they would have been because of competition with rail water routes, whereas water-rail routes were not a factor in the handling of peach traffic.

There is no inconsistency in this situation and where the use of constructive first class rates was authorized by the Commission or employed by the carriers in connection with rates on particular classes of traffic, this was in recognition of the fact that the conditions surrounding the movement of such traffic were not the same as those which caused the Commission in Southern Class Rate In-
[fol. 3985] vestigation to prescribe key rates between the East and the South which were on a lower level than the general basis prescribed for making rates between Official Territory and the South. The mere reference to the manner in which the rates were determined does not show that they are improper or otherwise unlawful.

In Exhibit 90 sheets 7 and 8 Mr. Hart complains because the class rates between Official Territory and points in North Carolina and Kentucky and points in so-called Southern border territory are lower, distance considered, than the class rates between Official Territory and other portions of Southern Territory or between points in Southern Territory. Mr. Hart pointed out that this subject was discussed by the Commission in the first supplemental report in Southern Class Rate Investigation and again in third supplemental report in that proceeding, but the Commission declined to make any change in its prior action.

In the third supplemental report in Southern Class Rate Investigation the Commission in referring to the illustration used by the carriers showing that for approximately the same distances to Jackson, Tennessee, the rates from Indianapolis, Indiana, would be lower than from Atlanta, Georgia, pointed out that the Atlanta Freight Bureau had filed an answer to the carriers' petition which made no point of this situation and asked that the petition be denied. Furthermore, when the question of class rates between Offi-
[fol. 3986] cial Territory and points in North Carolina and Kentucky were again before the Commission in the Kentucky and North Carolina Cases, Docket Nos. 21373 and 21665, Mr. Hart did not come before the Commission to make any complaint about this situation.

Mr. Hart's statement with respect to his situation takes no account of the fact that on commodities produced both in the South and the North competitive rates are maintained on such commodities from Southern shipping points to the Ohio River and the Virginia Cities; the observance of the long-and-short-haul rule in connection with such rates has the effect of bringing down the level of the rates to points in Southern Territory intermediate to the Ohio River and Virginia Cities. The Commission commented on this situation in the first supplemental report in Southern Class Rate Investigation at page 319.

Prior to the decision in Southern Class Rate Investigation the class rates between Central Freight Association Territory and the South were made by combination of factors over the interterritorial gateways. In Exhibit 90 at page 10 Mr. Hart said that perhaps the old combination basis after all was preferable. This observation of Mr. Hart may be illustrated by sheet 13 of my Exhibit No. 178 showing the first class rates from Detroit, Michigan, to Greensboro, North Carolina, and Atlanta, Georgia, and [fol. 3987] from Cleveland, Ohio, to Jackson, Tennessee, and Gadsden, Alabama. This sheet shows the combination of first class rates over the interterritorial gateways as of January 14, 1928, and at the present time and the through first class rates now in effect. It will be noted that when on January 14, 1928, there were no through rates in effect, the combination rate from Detroit to Greensboro was lower than the combination rate from Detroit to Atlanta and the combination rate from Cleveland to Jackson was lower than the combination rate from Cleveland to Gadsden. The same situation would exist if the rates were presently made on combination basis. Therefore, the through class rates between Official Territory and Southern border territory which are relatively lower than the through class rates between Official Territory and other portions of Southern Territory reflects no different situation than would be the case if the rates were made by combinations over the interterritorial gateways.

Mr. Hart in Exhibit No. 90 at pages 11 and 12 stated that following revision in class rates under Southern Class Rate Investigation and as result of denial of outstanding Fourth Section relief there were revisions in the commodity rates on many commodities and that to a considerable extent the revised rates on these commodities were related

to the first class rates. Mr. Hart claimed that this created an entirely new system of rates on which commodities pro- [fol. 3988] duced in the South moved into common markets which system disregarded economic and other conditions reflected in the prior system. Mr. Hart further claimed that in most cases the result of these revisions was to increase the revenues of the rail carriers.

While since the class rate revision on January 15, 1928, the rates on many commodities have been revised in the form of column ratings, Mr. Hart's statement that these readjustments disregarded economic and other conditions reflected in the prior system is wholly unsupported by any facts and is contrary to the facts. In accordance with established procedure all parties interested were afforded opportunity to be heard as each of the commodities was taken up for consideration by the carriers, and in the main, the revised rates were satisfactory to the shippers. The level of the rates determined upon was fixed in the light of conditions surrounding the movement of each particular class of traffic. The class rate adjustment did not fix the level of the rates, but after the level was determined in the light of all the facts, column rating was selected which would produce the level decided upon. In many cases the adjustments were passed upon by the Commission and the rates either approved or prescribed by the Commission. If the commodity was one which moved from the South to the North in competition with like traffic in the North the [fol. 3989] competitive conditions surrounding the movement were taken into account in determining upon the level of the rates to be applied. It is only necessary to read the many decisions of the Commission, among which is Cotton, Woolen and Knitting Factory Products, 211 I. C. C. 692, to see that Mr. Hart's statement is wholly incorrect.

The Commission observed the plan of fitting rates on commodities into the class rate structure long before the decision in Southern Class Rate Investigation. In the Mississippi Valley Case, 64 I. C. C. 306, decided November 15, 1921, the Commission prescribed a complete revision in commodity rates to Mississippi Valley territory. The basic commodity rates were fixed from St. Louis and Louisville to New Orleans and these basic rates fitted into the class rate structure fixed the entire adjustment to Mississippi Valley territory.

In the original decision in Consolidated Southwestern Case, 123 I. C. C. 203, decided April 5, 1927, the Commission fitted into the class rate structure there prescribed the rates on a long list of commodities, including agricultural implements, canned goods, furniture, soap and sugar. This was prior to the final decision in Southern Class Rate Investigation.

In Standard Paint Company versus Director General, 112 I. C. C. 589, decided June 2, 1926, which was before [fol. 3990] the final decision in Southern Class Rate Investigation, the Commission prescribed rates on prepared roofing, asphalt shingles, roofing and building paper from points in Official Territory to the South related to the class rate structure. This case was later reopened and was finally decided May 8, 1928, but the original decision was a clear indication that the class rate structure would be employed for this purpose. As a matter of fact, in the original decision in Southern Class Rate Investigation, the Commission said "we are here dealing with a scale of class rates moving carload as well as less than carload traffic."

In the revision of the many commodity rates following the decision in Southern Class Rate Investigation, there were necessarily involved some increases in rates, but, on the whole, we are convinced that, like the class rate revision, the net result was to reduce the revenues of the carriers. It must be remembered that between an important part of Official Territory and Southern Territory the rates on these commodities were made by combination of rates over the interterritorial gateways and in the revisions joint through rates were substituted for combination rates. Moreover, in a number of cases the bases originally established were later reduced to a lower level because of truck competition.

Sheet 14 of my Exhibit No. 178 shows for the years 1921 to 1941, inclusive, tons handled and freight revenue of [fol. 3991] carriers in Southern region. The hearings in Southern Class Rate Investigation started in May, 1922, and ended March 14, 1923. Following the proposed report there was a hearing held December 15th and 16th, 1924, at which time the carriers presented traffic study on traffic handled in April, 1924. The original decision was rendered July 7th, 1925. The third and final supplemental decision was rendered July 19th, 1927. The rates became effective

January 15th, 1928. It could hardly be claimed that since 1928 the position of the Southern carriers had been better than it was prior to that year. The freight revenue of Southern carriers in the years 1925, 1926 and 1927 was greater than in any of the years thereafter. Since these rates became effective the carriers on February 5th, 1936, established pick-up and delivery service on less carload traffic. In 1940 the Southern carriers paid out $4,087,864.00 for pick-up and delivery service.

By Mr. Dixon:

Q. Mr. Crane, since 1940 the cost of performing pick-up and delivery service has substantially increased, has it not?
A. It has.

Chairman Aitchison: And also the rates?
The Witness: You are correct.

By Mr. Dixon:

Q. Proceed.
A. In Sections 3-B, 3-C and 3-D of Exhibit No. 88 Mr. Hart showed the ratings or the rates on various com- [fol. 3992] modities in the South and in the North and also from the South to the North. Mr. Hart stated that the information shown in these sections was not presented for the purpose of comparing the rates but merely to show the pattern of the rates. I understand this to mean that Mr. Hart was merely undertaking to show whether the commodities used moved on classification ratings, exception sheet ratings, commodity mileage scales or specific commodity rates. The ratings or the rates shown were not claimed in all instances to be those now in effect and Mr. Hart indicated that this was unimportant from the standpoint of the purpose for which the presentation was made.

We have not had sufficient time in which to make a detailed check of the exhibit. However, I do wish to deal, at this time, with Section 3-B of Exhibit 88. In referring to this section, Mr. Hart at page 1697 of the record said: "Section 3-B was prepared to show the rates in the South and the rates between the South and Official Territory on the most important classes of carload traffic that originate in the South. The commodities shown in this section are all commodities that move in the South and interterritorially."

It might be inferred from this statement that all of the commodities shown in Section 3-B of Exhibit 88 move from the South to the North. This is not correct and as a matter of fact some of the commodities shown in this section of Exhibit 88 are not produced in the South.

[fol. 3993] The exhibit shows newsprint paper with class 25 ratings in the South and in the North, and class 30 ratings from the South to the North. Newsprint paper is not produced in the South but there is a large amount of newsprint paper consumed in the South. The Southern carriers terminated 176,930 tons in 1940 and 209,863 tons in 1941. The Freight Commodity Statistics also show the Southern carriers originated 38,085 tons in 1940 and 47,017 tons in 1941, but this would be newsprint paper brought into Southern ports by water and moved thence by rail to points in Southern Territory. In Newsprint Paper Investigation, 197 I. C. C. 738, the Commission prescribed class 25 rates on newsprint paper in the South and in that case rates were also prescribed from mills in Official Territory and Western Trunk Line Territory to destinations in the South.

The exhibit shows starch with class 25-V rating in the South, class 27½ rating in the North and class 30 rating from the South to the North. There is a small production of potato starch at Laurel, Mississippi, but the movement from that point has been to destinations in the South. There is a large tonnage of starch from other territories, particularly Illinois Freight Association and Western Trunk Line Territories, to the South.

The exhibit shows bagging, namely, cotton bale covering and cotton baling ties. As these commodities are used [fol. 3994] in the baling of cotton, it would hardly be expected that there would be a movement from the South to the North.

The exhibit shows sulphuric acid with the ratings in the South, in the North and from the South to the North. The movement in the South is under commodity rates. Normally there is no movement from the South to the North and there has been no occasion to consider the rates in relation to those in the North.

The exhibit shows soda and soda products and the ratings in the South, in the North and from the South to the North. There is no production in the South on South-

ern lines, except at Baton Rouge. There is production of soda ash and caustic soda at Saltville, Virginia, on the Norfolk and Western Railway, and these commodities are also produced at points in the North and at points in the Southwest in Louisiana and Texas. There is a large tonnage of these commodities to destinations in the South. The ratings from the North to the South are the same as those shown by Mr. Hart from the South to the North, and these ratings are the result of decision in Mathieson Alkali Works versus L. & N. Railroad Company, 153 I. C. C. 784.

In the exhibit silicate of soda was included along with soda ash and caustic soda. There is a movement of silicate of soda to box manufacturing points in the South from Cincinnati, Ohio, and points north of the Ohio River, [fol. 3995] but there is no production in the interior South or movement from the South to the North. The rates to points in the South were before the Commission in Silica of Soda in Southern Territory, 165 I. C. C. 336.

The exhibit shows fresh meats and packing house products and there is an important production of these commodities in the South. The movement, to some extent, is to the North. However, the production in the South falls far short of supplying the market in the South and there is a large movement to the South, principally from Illinois Freight Association, Western Trunk Line and Southwestern Territories. The present rates are the result of decision in Fresh Meats and Packing House Products, 191 I. C. C. 257.

The exhibit shows aluminum and in the South there is a large production of plate, sheet and pig aluminum at Alcoa, Tennessee, Badin, North Carolina, and Listerhill, Alabama. The movement from these points to the North is under commodity rates and not under the ratings shown in the exhibit.

The exhibit shows denatured alcohol with class 30 rating in the South and from the South to the North, and class 35 rating in the North. The principal production in the South is at New Orleans, Louisiana, and the movement to the North is under commodity rates. These rates were before the Commission in American Distilling Com- [fol. 3996] pany versus A. C. & Y. Railway Company, 140 I. C. C. 633, 153 I. C. C. 77 and 160 I. C. C. 366.

The exhibit shows blackstrap molasses with ratings in the South, in the North and from the South to the North. Where there is a movement from the South to the North it is under commodity rates and not under the rating shown in the exhibit.

The exhibit shows molasses and syrup, edible, with ratings in the South, in the North and from the South to the North. However, the movement from New Orleans and other Southern shipping points to the North is under commodity rates.

The exhibit shows cotton softener and the ratings in the South, in the North and from the South to the North. There is a production in the South and the movement is to points in the South. There is also movement from the North to the South. In Chemicals, Acids and Dye Stuffs, 177 I. C. C. 529, the Commission approved class 37½ for carloads and Fourth Class for less carloads. This commodity is used in the cotton mill industry, the major portion of which is in the South. So far as I know, the carriers have never been asked to consider rates on cotton softener from the South to the North.

The exhibit shows other commodities such as electric storage batteries, paints and varnishes, and soap and [fol. 3997] washing powders which are produced, to some extent, at points in the South, but the movement is to points in the South and generally in less carload quantities. If these industries ever desired to market their products in the North we have not been advised of it. As a matter of fact they supply only part of the market in the South, because considerable quantities of these commodities move from the North to the South.

The exhibit covers machinery with the ratings in the South, in the North and from the South to the North. There is movement from the South to the North and to other points, but the industry in the South supplies only a portion of the market in the South. The Southern carriers in 1940 orginated 94,040 tons and terminated 224,496 tons and in 1941 originated 145,988 tons and terminated 379,227 tons. There is a large movement of machinery from the North to the South and this is reflected in the figures which I have given.

The same thing may be said of building paper and prepared roofing materials, except that in this case the plants

in the South do not look to the North for a market for their products. There is an important production in the South of building paper and prepared roofing materials, but the movement is to points in the South and Southwest. The Southern carriers in 1940 originated 196,396 tons and terminated 326,291 tons and in 1941 they originated 245,636 tons [fol. 3998] and terminated 432,373 tons. There is still a substantial movement of these commodities from the North to the South and this is reflected in the figures I have given.

There are several groups of commodities covered by the exhibit to which I desire to direct particular attention. These commodities are textile products, furniture, paper and pulpboard. They move in large volume from the South to the North, even though the rates are somewhat higher than in the North.

The textile rates were before the Commission in Cotton, Woolen and Knitting Products, 220 I. C. C. 189. The major part of the industry is in the South and the industry in the South consumes more than 75 per cent of all of the cotton consumed in the United States.

The rates on furniture were before the Commission in Furniture, 177 I. C. C. 5. The rates in the South, in the North and from the South to the North are on a lower level than was fixed by the Commission. However, the rates from the South to the North bear the same relationship to the rates in the North as the rates prescribed by the Commission. There is some production of metal furniture in the South, but the large production is furniture other than metal. The tonnage of the latter originated by Southern carriers was 129,113 tons in 1940 and 184,686 tons in 1941.

The rates on paper, paper bags and pulpboard from the [fol. 3999] South to the North were worked out between the Southern shippers and the carriers. They were later reviewed by the Commission in Paper, Official-Illinois Territories to South, 234 I. C. C. 81. The traffic moves in large quantities from the South to the North. The tonnage originated by Southern carriers of paper and pulpboard combined was 1,358,759 tons for 1940 and 1,810,831 tons for 1941.

I shall mention also wallboard inasmuch as this commodity is included in the Freight Commodity Statistics along with pulpboard or paperboard. There is an important production of wallboard in the South and there is a regular movement to points in the North. The present rates

from the South to the North are in accordance with the decision of the Commission in Wallboard between Southern and Official Territories, 227 I. C. C. 235.

I should direct attention to the fact that in many cases the designated ratings as shown in Section 3-B of Exhibit 88 might be misunderstood. In the case of furniture, minimum weight 30,000 pounds, Class 37-L rating is shown from the South to Central Freight Association territories and Class 41-M rating is shown from the South to Trunk Line and New England Territories. While the ratings are so designated in the tariffs, they represent in both cases rates which are slightly higher than Class 37. This situation might also be illustrated further by machinery, on [fol. 4000] which the ratings shown are Class 31½-L from the South to Central Freight Association and Illinois Freight Association Territories and Class 36-M from the South to Trunk Line and New England Territories. These ratings are so designated in the tariffs, but in both cases they represent rates which are 33 per cent of first class.

In showing the rate levels from the South to the North, as compared with the rate levels in the North on the commodities covered by Section 3-B of Exhibit 88, Mr. Hart has assumed that the first class rates from the South to Central Freight Association and Illinois Freight Association Territories will average as high as the first class rates under the scale in the South and that the first class rates from the South to Trunk Line and New England Territories will average about 91 per cent of the first class rates under the scale in the South. By measuring the scale in the South with the scale in the North Mr. Hart then calculated that if the rating expressed in percentage relationship to first class was the same from the South to the North as in the North, the rates from the South to Central Freight Association and Illinois Freight Association Territories are 38 per cent higher than the rates in the North and the rates from the South to Trunk Line and New England Territories are 28 per cent higher than in the North. These figures were adjusted proportionately where the rating expressed in per- [fol. 4001] centage relationship to first class from the South to the North is different than in the North. This method of comparing the rate levels is incorrect. In the first place the first class rates from the South to Central Freight Association and Illinois Freight Association Territories will not average as high as the first class rates under the Southern

Territory scale. In the second place the points from which the traffic moves is left out of consideration. I might illustrate the latter by acetic acid which is included in the exhibit with Class 30 rating from the South to the North and Class 35 rating in the North. This commodity originates at Memphis, Lyle and Kingsport, Tennessee, and from these origins the first class rates not only to Trunk Line and New England Territories but also to Central Freight Association and Illinois Freight Association Territories are lower than the first class rates under the Southern Territory scale. From Memphis to Detroit, Michigan, for example, the Class 30 rate is 57 cents and the Class 35 rate for corresponding distance under the Northern scale, is 54 cents. The rate from Memphis to Detroit is therefore 5½ per cent higher than under the Northern scale and not 20 per cent higher as would be indicated by the exhibit.

I have undertaken, in a general way, to deal with this presentation of Mr. Hart, not because the rates are involved in this proceeding, but because an attempt might be made [fol. 4002] to use the information for purposes other than the one given by Mr. Hart. The explanation which I have made in connection with a large number of the commodities covered by the exhibit is for the purpose of showing the importance and necessity of considering all of the facts and circumstances. In many cases this has already been done in proceedings before the Commission where the rates on the particular commodities were under review. It cannot be done in a wholesale way and by the mere presentation of statements such as those covered by Section 3 of Exhibit 88.

Mr. Dixon: Now, I would like to ask you just one or two questions.

By Mr. Dixon:

Q. Mr. Crane, several days ago one of the gentlemen from Minnesota referred to the movement of flax for the manufacture of cigarette paper.

A. Yes.

Q. Is it or is it not a fact that we have a cigarette paper manufacturing plant on the Southern Railway System?

A. The largest plant in this country is located at Pisgah Forest, North Carolina, on the Southern Railway. I understand there are two small plants in the East. There is a very large plant on our line in Western North Carolina. It

draws its flax straw from Minnesota and California. Since that plant was established a few years ago it has more than doubled its capacity.

[fol. 4003] Q. I think you also wanted to mention the rates on leather from Andrews, North Carolina. Please proceed with that.

A. Mr. Chilewitz of the Andrews Tanning Company presented Exhibit No. 77 in connection with rates on leather from Andrews, North Carolina, to points in Official Territory. Andrews, North Carolina, is on the Murphy Branch of the Southern Railway about 108 miles south of Asheville, North Carolina. There are two other tanneries on that branch, one at Sylva, North Carolina, and the other at Hazelwood, North Carolina. We also have tanneries at Asheville, Morganton, Rosman and Brevard, North Carolina. All together that makes seven points on our line in North Carolina where tanneries are located. There are also tanneries located at Newport, Tennessee, and Millsboro, Kentucky. The present adjustment of rates on leather from these Southern tanneries to points in Official Territory was worked out in 1933. There were several conferences between the directly interested carriers and the directly interested shippers and the rates that were worked out were satisfactory to those shippers. Since the rates were made effective, we have had no complaint with respect to them.

Chairman Aitchison: Are they class rates involved in this proceeding, or what?

The Witness: No, they are not.

Chairman Aitchison: Why did you bring them in, then?

[fol. 4004] The Witness: The only reason I am going into them is because Mr. Chilewitz was brought here to go into them.

Chairman Aitchison: Why didn't you get him stopped?

The Witness: I did not bring him here. Of course, if you should prescribe a class rate scale as low as has been asked for here, these rates would become involved because the class rates would be lower than these commodity rates.

Chairman Aitchison: We cannot take the time to discuss all the things that might occur if the suggestions of some people were adopted. If we did that, we would be here the rest of the year.

The Witness: I did not quite follow that, Mr. Chairman.

Chairman Aitchison: Never mind. Go on.

The Witness: I want to point out there that this adjustment had been worked out with the shippers, but none of them had complained to us about it, and until Mr. Chilewitz came here we had no complaint from him. All of the tanneries ship the major portion of their products to Official Territory. Since the Andrews Tanning Company started to ship in September, their movement with the exception of one car has been to points in Official Territory.

By Mr. Dixon:

Q. Do you have anything further, Mr. Crane?

A. No, sir.

Mr. Dixon: Mr. Chairman, we offer in evidence Exhibit [fol. 4005] No. 178.

Chairman Aitchison: If there is no objection, it will be received.

(Exhibit No. 178, Witness Crane, received in evidence.)

Mr. Dixon: You may cross examine.

Chairman Aitchison: Does anyone care to cross examine Mr. Crane? (No response.)

Mr. Smelker: I have one question.

Chairman Aitchison: Mr. Smelker.

By Mr. Smelker:

Q. Mr. Crane, can you give the Commission the approximate effect on the general level of revenues in the South of the hundreds of reductions in ratings made in the South in 1940?

A. As compared with the traffic as a whole, of course it was a very small effect, on revenue as a whole.

Q. Could you give any percentage?

A. I would say it was less than 1 per cent. How much less, I do not know.

Q. Those were mostly reductions in less than carload traffic, were they not?

A. Yes, sir.

Q. Could you give any idea as to the proportion between less than carload and carload?

A. Well, carload is so much greater than less than carload——

Q. I mean——

[fol. 4006] A. Oh. You mean, in that revision?

Q. Yes.

A. Oh, it was mostly less than carload. There were very few carload changes in that revision.

Q. Would that be 1 per cent of all revenue, carload and less than carload both?

A. I would not say it was as much as 1 per cent. I would hate to hazard a guess as to any exact percentage, because it was such a small part of the whole traffic. Many of these changes were nothing more than providing the same rating on the same commodity in different kinds of containers. Then, of course, there were other changes.

Mr. Smelker: That is all.

Chairman Aitchison: Are there any other questions of this witness? (No response.) If not, you are excused.

(Witness excused.)

Chairman Aitchison: We will suspend until 8 o'clock this evening.

(At 5 o'clock P. M, adjourned to 8 o'clock P. M.)

[fol. 4007] Evening Session

The hearing was resumed pursuant to recess.

8 o'clock P.M.

Chairman Aitchison: Shall we come to order. You may proceed, Mr. Grubbs.

Mr. Grubbs: Take the stand, please, Mr. Morris.

Chairman Aitchison: This witness has been previously sworn.

Mr. Grubbs: Yes, your Honor.

BEN F. MORRIS, recalled:

Direct examination,

By Mr. Grubbs:

Q. You are the same Mr. Ben F. Morris who previously appeared, was sworn and testified at the Indianapolis hearing, are you?

A. Yes, sir.

Mr. Grubbs: I might say at this point, if the Commission please, before Mr. Morris is interrogated further, that he

has two exhibits to submit at this time, the first of which is the small exhibit, consisting of four sheets; and the second of which is the large planographed document.

Chairman Aitchison: 179 and 180.

(Exhibits 179 and 180, Witness Morris, marked for identification.)

By Mr. Grubbs:

Q. Now, Mr. Morris, at the outset of Mr. Spottswood's [fol. 4008] testimony he said, "I intend to discuss the economic consequences of the regional disparities in existing class rate structures." Have you checked the rates which he used in the showing that he made?

A. I have.

Q. Did you find the Southern Territory rates that he has used in his charts to be class rates or commodity rates?

A. I found them to be both. However, generally speaking, the rates which he has used on the so-called raw materials are commodity rates, or exceptions to the classification; and the rates that he has used generally on the finished products are class rates. That is not true in all instances, however.

Q. Do the commodities shown by him as taking class rates, actually move on the class rates that he used from the South to Official Territory? In answering that question, Mr. Morris, I will ask you to turn to the chart which Mr. Spottswood prepared, shown at page 10 of his Exhibit No. 76. If the Bench would like to have this before it, I will be very glad to supply copies.

A. Chart 3 on page 10 of Mr. Spottswood's Exhibit 76, in figure 1, deals with rates on cottonseed oil, oleomargarine and cooking or salad oils; and the origins which are shown on page 23, are Memphis, Tennessee, Decatur, Alabama, Savannah, Georgia, Atlanta, Georgia, and Columbus, Geor- [fol. 4009] gia. The cottonseed oil rates which are shown in the chart are commodity rates published in the form of exceptions to the classification, and are the rates which this Commision prescribed in Docket 17,000 part 8. The rates which Mr. Spottswood shows on oleomargarine are exceptions to the clasification, and apply from Memphis, Tennessee, Chattanooga, Tennessee, Atlanta, Georgia, Jackson, Mississippi, and Savannah, Georgia. As far as I am

able to determine, there is no production of oleomargarine at any of those points. The rates which are shown on cooking or salad oils are exception rates, or column rates. Actually, however, the large part at least of the cooking or salad oils from the South into the North, moves under the cottonseed oil rates. The rates shown in figure 2 on woodpulp, pulpboard and paper bags, are commodity rates. The rates as shown in figure 2 on newsprint paper are class rates. The fact is, however, that there is no production or movement of newsprint paper from the points shown in figure 2 or from any other points in Southern Territory. There is, however, a newsprint mill at Herty, Texas, near Lufkin, which mill, as I understand it, was established for the Southern newspaper publishers, who have long been endeavoring to develop the manufacture of newsprint paper from southern pine. As far as the rates from Herty to the Ohio River and north are concerned, they are commodity rates, made 100 per cent of the Official Territory [fol. 4010] level to the Ohio River cities, and 110 per cent of that level to the territory north of the Ohio River; and I might add that those rates are joined in by the Southern lines to both the Ohio River cities and the territory beyond. The rates shown in figure 3 on asphalt are commodity rates, or exceptions to the classification. The rates shown on asphalt roofing, prepared or composition, are likewise classification exceptions or column rates. My investigation develops that there is no movement of asphalt roofing from any of the origins named in the explanation of figure 3 on page 25, with the exception of Memphis, Tennessee—the possible exception, that is, of Memphis, Tennessee, from which I have had no report. The rates shown in figure 3 on asphalt paint are on the classification basis. My investigation develops that there is no movement from any of the origins shown to Official Territory. The rates shown in figure 4, on clay, are commodity rates, but the rates shown on plumbers' goods are the classification rates. You will see from this exhibit, however, that the rates shown in figure 3 on the plumbers' goods apply on china or earthenware. As I show in my own exhibit, commodity rates are published which, by the way, were prescribed by this Commission in the so-called Southern Governors Case—from Chattanooga, Tennessee, to the North, on the kind of plumbers' goods that are produced in Chattanooga,

[fol. 4011] namely, enameled plumbers' goods. The rates shown in figure 4 on pottery or chinaware, are the classification rates.

Q. Now, Mr. Morris, does that complete your statement on that particular subject?

A. Yes, sir.

Q. Does the cooking or salad oil move from the South to Official Territory on the commodity rate basis which is shown by Mr. Spottswood?

A. As I have just explained, Mr. Grubbs, it moves largely on the cottonseed oil rate basis.

Q. Yes, sir. Now, Mr. Spottswood divided his showing into four parts, the first of which, concerning which we have heard several times here, was his effort to liken the relation between the South and Official Territory to that between a colony and a mother country.

A. Yes.

Q. And to support this view Mr. Spottswood undertook to show that the South is largely a raw materials producing section, and that it is engaged in sending its raw materials to the North, where they are manufactured into finished products and returned to the South as manufactured articles. I want to ask you first now, Mr. Morris: Are you familiar in a general way with the movement of raw materials in the South?

[fol. 4012] A. I believe I am.

Q. What are the principal raw materials that originate in the South?

A. I would say that the principal raw materials that originate in the South, are embraced in the following list: Tobacco; cotton—among the products of agriculture; hides; bituminous coal; iron ore; sand, gravel and crushed stone; phosphate rock; logs; pulpwood; naval stores; and perhaps pig iron ought to be included also, although it is a manufactured product.

Q. Did you mention iron ore?

A. Yes, sir.

Q. Cotton?

A. Yes, sir.

Q. Woodpulp?

A. Yes, sir.

Q. Very well. Now, is the movement of these commodities preponderantly to Official Territory?

A. No.

Q. Is coal shipped to the North, to be further processed there and returned to the South?

A. Mr. Grubbs, in my last answer it was my intention to except coal. The Kentucky coal is shipped in vast quantities to Official Territory.

Q. But it is not shipped there to be further processed [fol. 4013] and returned to the South, is it?

A. Oh, no.

Q. Where does the preponderance of the raw materials which you have enumerated, terminate?

A. A study of the originated and terminated tonnage indicates clearly to my mind that the preponderance of these raw materials which I have named, with the exception of coal, as I said, and naval stores, terminates within the South.

Q. Are manufactures shipped to any substantial extent from the South to Official Territory?

A. Yes.

Q. Would you care to give the Commission some figures that you have on that subject, Mr. Morris?

A. Yes, sir, I would.

Q. Please proceed.

A. With a view to determining how the movement of manufactures via our own railroad to the North compared with the movement of other commodities in the groups that are embraced in the Commission's classification, I had a study prepared from our passing reports for one month. I might say that I chose for that purpose the month of September, 1940, because that was the earliest month for which we had retained the passing reports. After obtaining all of the passing reports for our railroad for the month indicated, I undertook to have them segregated according to [fol. 4014] the Commission's statistical classification. The result was this, that during the month of September, 1940, the Louisville and Nashville Railroad moved 349 cars of Products of Agriculture—carloads—which are in the Commission's Group 1; 715 carloads of Animals and Products, which are in Group 2; and 32194 carloads of Products of Mines, which are in the Commission's Group 3. Of this latter tonnage, 30,882 cars consisted of coal. There were 2853 cars of Products of Forests, which are in Group 4; and 2600 cars, or carloads, of Manufactures and Miscellaneous, which are in Group 5. Now, on a straight mathe-

matical average, the manufactures represented approximately 30,000 carloads per year for this one railroad. Deducting the coal tonnage from the Products of Mines, we had 7829 cars during the month of September, 1940, and 2600 of those cars contained Manufactures and Miscellaneous. In other words, 33 per cent of our carload tonnage during the month of September, 1940, consisted of articles in the Manufactures and Miscellaneous group.

By Mr. Northcutt:

Q. That is, 33 per cent of the tonnage, other than coal?

A. Yes, sir.

Q. Go ahead.

A. Now, just for the purpose of testing out my own figures, last night I compared the percentage of the total movement, with the movement that is shown in the study [fol. 4015], which has been introduced in this proceeding by Dr. Aitchison; and I found that the carload traffic from the South to Official Territory for one day in 1942, namely, May 17th, amounted to 4801 cars, excluding coal, while the movement of Manufactures and Micellaneous amounted to 1629 cars; so that it can be seen that the Manufactures and Miscellaneous in this study represented 33.9 per cent of the total movement, excluding coal.

Q. That was for all lines?

A. Of course that study was for all lines, yes, sir. I do not remember just offhand the number of the exhibit containing the study submitted by Dr. Aitchison.

Mr. Smelker: 14.

A. I understand, however, that it is Exhibit No. 14.

By Mr. Grubbs:

Q. Now, Mr. Morris, do you have any idea as to how the movement of manufactures from the South to Official Territory compares with the movement of manufactures from Official Territory to the South?

A. I do not have any accurate idea, no Mr. Grubbs. I am quite certain in my own mind, however, that the movement from the North to the South is larger than the movement from the South to the North; and I am quite certain also that the movement northbound represents a rather substantial part of the southbound movement.

Q. Can you give us something a little bit more definite [fol. 4016] than that, Mr. Morris?

A. Well, the only figure that I can give you at this time, from the data which are available to me, is the result of the one-day test shown in Exhibit No. 14; and my recollection just offhand here is that that shows the northbound movement to represent 80 per cent of the south bound movement. That is as far as I can go beyond the term "substantial."

Q. Very well. Now, Mr. Morris, Mr. Spottswood undertook to demonstrate his first proposition by a showing of what he referred to as "traffic balances", arrived at by showing, from the Commission's statistics, the difference between tons originated and tons terminated by major classification groups, by territories. Now, he shows in this way a net outbound traffic balance, which he called an "export" traffic balance, from the South on all commodities in the year 1940, of 26,835,000 tons. If you eliminate Products of Mines, how is that result affected?

A. Well, if you eliminate Products of Mines entirely, the so-called net balance becomes 238,000 tons, instead of 26,835,000 tons.

Q. And also, if you eliminate the coal shipped from Louisville & Nashville and Illinois Central Kentucky mines, how is it affected?

A. If you eliminate the coal that is shipped from Ken- [fol. 4017] tucky mines of the Louisville & Nashville and Illinois Central Railroads to Official Territory, the so-called net balance is then reduced from 26,835,000 tons, to 7,949,- 000 tons.

Q. That means, in other words that there was a movement from Kentucky to Official Territory in 1940, the year which was used by Mr. Spottswood of how many tons?

A. 18,886,000.

Q. Now, Mr. Spottswood's showing on the traffic balance was confined to the major classification groups. Have you an exhibit showing detailed results within such major classification groups?

A. Yes, sir.

Q. Is that the exhibit which has heretofore been identified as your Exhibit No. 179?

A. Yes, sir.

Q. Here you have used the year 1939, I believe.

A. Yes, sir.

Q. Does the fact that there might have been a greater originated and terminated tonnage of the descriptions of traffic covered thereby, indicate to you that it possibly represents traffic which moved either wholly or in very large part, to Official Territory?

A. I am very frank to say, Mr. Grubbs, that in my judgment the so-called balances afford no real safe guide in determining where the traffic may have moved, or whether [fol. 4018] it moved into or out of a given territory. Just for example, in the coal tonnage that is included in this study, we have, as I have shown in 1939, 16,000,000 tons of coal that moved from Kentucky to the North. On the other hand, I know that there is a large volume of coal movement from the Pocahontas region into the Eastern section of Southern Territory. Again, we have the movement of citrus fruit from Florida, which may terminate—and part of it does—in Southern Territory. On the other hand, we have citrus fruit that moves from Texas, and the Pacific Coast, into Southern Territory. What I am trying to say, now, Mr. Grubbs, is this, that in my judgment you can get no precise results, or no definite ideas, from these traffic balances.

Q. Now, Mr. Morris, Mr. Spottswood's testimony is to the effect that such manufactured articles as are shipped from the South to the North are articles which, in his own words, are "only one or two simple stages beyond raw materials." Do you think that the manufactured articles which are generally shipped from the South to Official Territory, may fairly be so characterized?

A. No, I do not.

Q. Are they generally simply articles that are moved to Official Territory for further processing, thereafter to be shipped back to the South as finished articles?

A. I do not believe, as a generalization, that that is cor- [fol. 4019] rect, Mr. Grubbs.

Q. Now the second proposition that Mr. Spottswood asserted was that it is not, in the national interest of our country for what he terms "the regional specializations" to survive in what he refers to as the "existing exaggerated degree", which in plain language, applied to the South, means that the South has not been developed industrially as it should be, and that it is largely dependent upon raw materials and foodstuffs, and that this is not in the best interests of the nation. What have you to say, based upon

your experience and observation concerning industrial development in the South? Now, before you begin your answer, Mr. Morris, let me say this: We have had, in the testimony of Mr. Oliver here today, a rather extensive statement on that subject, and therefore I am only asking you at this time to state very briefly your own views on the subject.

A. Well, stated very briefly, my own view is that the industrial development of the South in recent years has been rather remarkable; and it has certainly been continuous.

Q. Do you have an exhibit which contains facts and figures to support your views on this subject?

A. Yes.

Q. Is that a part, or one of the parts of your large exhibit, which has been identified as Exhibit No. 180?

A. Yes, sir.

[fol. 4020] Q. Will you point out the particular section of that exhibit, that deals with this subject, please.

A. My own study is contained in Section 2 of my Exhibit No. 180 for identification, which consists of 13 pages, or sheets.

Q. Now, will you tell us briefly, Mr. Morris, just what that section is designed to show.

A. I undertook to determine, from the statistical matter distributed by the Department of Commerce, how the industrial establishments in the eight Southern states in 1939, the latest year for which the data are available, compared with the number of establishments, wage earners and the like, in the year 1927. I have used the year 1927 as the starting place because the Southern Class Rate structure established pursuant to Docket 13494, became effective on January 15th, 1928; and all of the major class and commodity rate structures that have been revised since that time, were made effective in the period between 1927 and 1939, I believe, with the possible exception of the Western and Southern class rates. I have shown in this exhibit the number of establishments, the wages, the value of products and the value added by manufacture; and in the summary appearing at sheet 9 of the exhibit I have shown the totals for the eight Southern states, and for the United States as a whole. At this time I should like to review, just very [fol. 4021] briefly, some of those percentages. The number of establishments, as you will observe in the eight Southern

states in the year 1939, was 101.8 per cent of 1927; while for the United States as a whole it was 96 per cent.

By Mr. Norman:

Q. Pardon me, Mr. Morris, but what page of the exhibit are you talking about, now?

A. Sheet 9.

Q. Sheet 9?

A. Yes, sir.

Q. Of Exhibit 180 for identification?

A. Right.

Mr. Norman: Thank you.

A. (Continuing:) The wage earners in 1939, in the eight Southern states, represented 108.7 per cent of 1927; while for the United States as a whole, the figure was 94.3 per cent.

Mr. Norman: Pardon me again, but we seem to be having a little confusion over here. Did you say, that is on sheet 9?

The Witness: Yes.

Mr. Grubbs: Of the second section.

The Witness: The second section, Mr. Norman.

Mr. Norman: Oh.

The Witness: I am sorry. Section 2.

Mr. Norman: All right. Thank you.

[fol. 4022] A. (Continuing) Wages for the eight Southern states in the year 1939 were 99.2 per cent of 1927; while for the United States as a whole, the figure was 83.8 per cent. The value of products for the eight Southern states in 1939 was 113.2 per cent of 1927, while for the United States as a whole the figure was 90.6 per cent. Finally, the value added by manufacture in 1939, for the eight Southern states, was 102.1 per cent of 1927; while for the United States as a whole the figure was 89.5 per cent.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Back on the record. Continue.

By Mr. Grubbs:

Q. Right there, Mr. Morris, in 1927 you show 1130 establishments dealing with turpentine and rosin whereas in 1939, none are shown. Can you explain that?

A. Well, as I understand it, in 1939 they are shown under the two items of gum naval stores, and wood naval stores. For that reason I have shown the total of 1130, as compared with the total of 765.

By Chairman Aitchison:

Q. *Has* that industry gone off, in that proportion?

Mr. McCollester: It is just a difference in the way of reporting, if the Commission please.

Chairman Aitchison: No; 1130 as against 765.

A. Mr. Chairman, I do not have any information with [fol. 4023] respect to the industry, other than is shown in the Census reports; and beyond what it shows there, I am not able to explain.

By Mr. Grubbs:

Q. Now, Mr. Morris, is there another section of your Exhibit No. 180 for identification which also deals with this subject of industrial development in the South?

A. Yes, sir.

Q. Is that Section 5?

A. Section 6.

Q. Or rather, I mean to say, Section 6.

A. Yes, sir. Section 6 is really in three parts. The first section is a complete reproduction, by the photographic process, of that part of the Blue Book of Southern Progress for 1931, published by the Manufacturers Record of Baltimore, Maryland, dealing with industry in the South. Section 2—or rather part 2 of this same section, which commences at sheet 14 of Section 6, is also a reproduction from the Blue Book of Southern Progress, but for the year 1940. I have not undertaken to reproduce in this second part of the section the tables that appear in the Blue Book, because it seemed to me that enough tables were included in the first reproduction. In the third part of Section 6, at sheets 16, 17 and 18, I have reproduced an article which appeared in the August, 1938, issue of the Manufacturers Record, dealing with the statement that the South is economic prob- [fol. 4024] lem No. 1 of the nation, and containing a rather interesting summary of the situation in the South in connection with that statement.

Q. Now, Mr. Spottswood asserted that it is not in the national interest for the South to be so dependent upon cotton, and that there should be, in the national interest, a greater development of perishable foodstuffs. Mr. Tilford has told us about the efforts that have been made by your railroad and others in this territory, but I want to ask you at this time to supplement that, just briefly, in these respects: I will ask you first, Mr. Morris, how does the tonnage of fresh fruit and vegetables originated in the South compare with the cotton tonnage?

A. As the statement covered in my Exhibit No. 179 for identification shows, the cotton tonnage originated in the Southern region in 1939 amounted to 1,087,942 tons. The same statement shows that the tonnage of fresh fruit and vegetables during that same period originated by the Southern lines amounted to 2,171,182 tons.

Q. Do you have other figures on the other perishable foodstuffs mentioned by Mr. Spottswood, namely, dairy products, poultry and meat animals?

A. Yes, sir. The exhibit shows that the total tonnage of the commodities included in the Animals and Products group originated in the Southern Region in 1939, amounted [fol. 4025] to 1,245,898 tons. Of course, hides, wool and leather should be eliminated from that tonnage if you are dealing only with farm products, I believe, in the sense in which you have used the term; but if you do eliminate them, the total is well over a million tons.

Q. Do you have any information on the cash farm income derived from livestock as compared with the cash farm income derived from cotton?

A. Yes, sir; I have one very brief quotation that I should like to make from this same Blue Book of Southern Progress. This quotation summarizes, I believe, what you have just asked for.

Mr. Grubbs: If the Commission please, we ask the indulgence of the Commission, that the witness be allowed to read just one short paragraph, which was not copied or reproduced, from the Manufacturers Record.

The Witness: I am quoting from the Blue Book of Southern Progress for 1941, as follows: "The 1940 Blue Book called attention to the outstanding fact that the Southern cash farm income derived from livestock and livestock products has passed the billion dollar mark, to total

$1,400,786,000; but the record is again passed this year, with a total amounting to $1,027,397,000. This livestock development has proved a major factor in supplanting cotton and tobacco as principal sources of Southern cash farm [fol. 4026] income. Actually, in 1940, cotton and tobacco together comprised only about half the income derived from all farm crops."

By Mr. Grubbs:

Q. That ends the quotation, does it?

A. Yes, sir.

Q. Now, Mr. Spottswood's third proposition was that the Southern and Western class rate structures discourage the development of what he called high-grade and diversified industry in those sections. I will ask you if your years of experience in the Traffic Department of the Louisville and Nashville Railroad enables you to form a definite conclusion on this subject?

A. I have formed a conclusion, yes.

Q. What is it?

A. Well, my conclusion is that neither the class rate structure, nor anything else, has prevented the development of Southern industry.

Q. Have you undertaken, Mr. Morris, in your Exhibit No. 180 for identification, to support that view with authoritative statistical data?

A. Yes, sir, I have, and I think that it is supported not only by Section 2 of the exhibit, but certainly very well supported also by Section 5 of the exhibit—or rather, pardon me—I should say, Section 6.

Q. Will you please call specific attention at this point, [fol. 4027] Mr. Morris, to the pages of Section 6 of the exhibit that you have particularly in mind.

A. Well, I have in mind particularly, Mr. Grubbs, the table which is shown on sheet 3 of Section 6 of my Exhibit No. 180 for identification, which shows a list of Southern industrial plants, which are either the largest in the world, or in the United States, which also continues on sheet 4; the table on sheet 4 showing new industrial plants and expansions in the South during 1940, which also continues on sheet 5; and the table on sheet 6 shows diversified manufacturing in the South. Now just while I am still on that particular subject, discussing Section 6 of the exhibit, I

might say that I found another interesting figure, interesting to me at least, in the very back of the Blue Book for 1941, which compares the value of manufactures in the South and in the United States in 1939 with their value in 1900. Without taking the time now to give you all of the detail of the figures, this tabulation shows that for the United States as a whole, the value of manufactured products in 1939 represented 380 per cent of 1900, while the value of Southern manufactures in 1939 represented 615 per cent of the 1900 value.

By Chairman Aitchison:

Q. Refer to your tables on sheets 3 and 4, if you will. Most of those points, I believe, are either in Official Territory or on the border, are they not?

[fol. 4028] A. That is quite true, Mr. Chairman, yes, sir, because the Blue Book includes states that are in Official Territory; that is, West Virginia, Maryland and part of Virginia; and it also includes some of the Southwestern states; I know as to Texas and Oklahoma, for example, that Texas and Oklahoma are included. However, where I have made individual compilations of states, I have undertaken to confine them to the eight Southern states.

By Mr. Norman:

Q. Well, that includes all of the Ohio River cities, does it not, Mr. Morris?

A. Oh, yes.

By Mr. Grubbs:

Q. Well, those tables show exactly where the different industries are located, do they not?

A. Yes, sir.

Q. Now, Mr. Morris, is there any further statement that you desire to make, in connection with this particular subject?

A. None.

Q. I want to refer back again, now, Mr. Morris, to the charts to which you made reference a little bit earlier here, which are designed to establish the fact that the difference between the rates in the South and those in Official Territory increases progressively with each succeeding stage of manufacture. What, if anything do you have to say about that?

A. I do not recall just exactly the language that was used [fol. 4029] by Mr. Spottswood in discussing the chart which he prepared—I believe, if my memory serves me correctly, it was chart 3.

Q. Well now, Mr. Morris, in this connection, are you going to refer us to another section of your Exhibit No. 180 for identification?

A. Yes, sir.

Q. What section?

A. 7.

Q. Section 7?

A. Yes, sir.

Q. All right.

A. The chart I have reference to is chart 3, of his Exhibit No. 76,—Mr. Spottswood's Exhibit No. 76. I gained the very distinct impression that the chart was presented by Mr. Spottswood as undertaking to show a picture of the normal Southern rate adjustment into the North.

Q. Since you do not have his language, Mr. Morris, and I do have it here, I will just read it to you, and then ask you if you think it is correct. His statement was as follows: "The showing made by the charts I deem to be fairly representative of the respective rate levels."

Chairman Aitchison: What page?

Mr. Grubbs: I believe it is page 1398.

The Witness: That is what I had in mind.

By Mr. Grubbs:

Q. What have you to say in that connection?

[fol. 4030] A. Well, it just is not so, and in order to show that it is not so, I have prepared and included in Section No. 7 of my exhibit, a series of charts—or a series of figures, rather, I should say, which show just the opposite. Now, what both of the charts show, I believe, is that any fairly competent rate man can produce any sort of chart that he wants to on this subject, and that is necessarily so, because our commodity rates on the raw materials, and the finished products from the South into the North, are made with relation to the conditions that surround those particular commodities. Now if the charts of Mr. Spottswood are correct, using the commodities that he has used, and class rates, largely, on commodities that do not move, the difference between the two charts is simply this, that I have used

commodity rates in all instances; if other rates are used, you can still obtain varying results. For example, in figure 1 I have shown the rates on hides from the points which I have selected, to Northern points, reflecting approximately 127 per cent of the Northern level, while the rates on boots and shoes represent 90 per cent of the Northern level; and on sole leather, 100 per cent. Now if I might add just a very brief explanation at this point, so that the exhibit may be more readily understood, Mr. Grubbs—

Q. Yes.

[fol. 4031] A. —the pages which follow sheet 1 of Section 7 of this exhibit contain the rates and the authority for those rates which appear in the figures in sheet 1 of the exhibit.

Q. Now Mr. Spottswood's fourth and final proposition was that what he called continued piecemeal adjustments of class rates will not adequately serve the needs of the nation. Mr. Spottswood disclaimed being a rate expert. I will ask you to tell us what your own views are on that subject.

A. Well, in the first place, of course, it is not entirely clear to me as to just exactly what Mr. Spottswood had in mind when he referred to continued piecemeal adjustments of class rates. It seems to me that there has been a rather orderly readjustment, beginning with the Southern Class Rate Investigation; then the Consolidated Southwestern Investigation, the Eastern Class Rate Investigation, and the Western-Southern Class Rate Investigation, with several cases involving the troublesome border territory question. That does not strike me as being a piecemeal readjustment of the class rates. I rather construe his statement as meaning, really, that he did not think we ought to continue to make commodity rates as the necessity for them arises; and if that is what he meant, well, I am just not able to agree with him.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

[fol. 4032] Chairman Aitchison: Continue.

By Mr. Grubbs:

Q. Mr. Spottswood did base his position in this respect on a plea for what he called an unborn industry. What have you to say about that?

A. Well, Mr. Grubbs, it is right difficult to make rates for an unborn industry, and make rates that will be of any service at all when the birth of the industry takes place. My own idea with respect to that is that if we are to do the right sort of job in taking care of unborn industries, we must await their arrival, determine what they need, and make rates accordingly that will fit their needs to the extent that we are able to do so.

Q. You do not believe, then, I take it, Mr. Morris, that we should attempt to revise the entire rate structure for some unborn industry, or even some series of unborn industries?

A. Well, I might put it this way, in answering your question, Mr. Grubbs: I do not believe in burning down the barn to kill a rat that might be born in it.

Q. Now, Mr. Morris, have theories such as those which Mr. Spottswood has advanced in this proceeding, ever been advanced before, to your knowledge?

A. Well, in a general way, I would say, I believe that they have been, yes, Mr. Grubbs. They were advanced in the Kentucky cases, our Kentucky cases.

[fol. 4033] Q. Have they been tried out?

A. Well, to a considerable extent they have been, yes, sir.

By Chairman Aitchison:

Q. What do you mean by "Our Kentucky cases"?

A. I am referring there, Mr. Chairman, to the cases which involved the intrastate rates in the State of Kentucky, and the interterritorial rates between Kentucky and Official Territory. In both of those cases,—and I will give you references to them in just a moment—the general contention was made that the Official Territory level was necessary, in order to industrialize Kentucky.

By Mr. Grubbs:

Q. Well, what have been the practical results of the application of that theory?

A. Well, first of all, let me explain: As was shown in an exhibit which I filed at the hearing in this proceeding in Indianapolis, and which I think was confirmed by the witness for the Kentucky Railroad Commission who testified here last week, within Kentucky we have intrastate substantially the Official Territory level, by order of the Kentucky Railroad Commission in its Docket No. 344. Between

Kentucky and Official Territory we have rates which represent, as near as I am able to determine, about 10 per cent in excess of the Appendix E level. In any event, that is certainly true with respect to first class. Now then, just in order to determine what had happened in Kentucky, I made [fol. 4034] a similar compilation in Section 3 of my exhibit, to that contained in Section 2 for the Southern states as a whole. This statement shows the number of industrial establishments, and the other information, confined to the State of Kentucky for the years 1927 and 1939. I really tried to get the information for the year 1934, because the intrastate rates in Kentucky became effective in 1935; but I was unable to obtain the information. However, this study shows, at sheet 6 of the section that the number of establishments in Kentucky declined from 1927 to 1939; that the wage earners declined; that wages paid declined; that the value of products increased slightly; and that the value added by manufacture declined. Now I think, in all fairness, the 51 distilling plants which came back to Kentucky in 1932 and following,—and certainly not because of the freight rates, but for other reasons—might properly be deducted from the figures there. The figures for the 51 distilling plants are shown in the exhibit. I will not undertake to burden the record by deducting the figures here.

By Chairman Aitchison:

Q. Well, one other factor should be taken into account, should it not, and that is the purchasing power of the dollar.

A. Yes.

Q. 1927 as compared with 1939.

[fol. 4035] A. Yes, sir, that is true.

By Mr. Grubbs:

Q. Now, Mr. Morris, is there any other comment that you desire to make, on this particular section of your exhibit.

A. Why, I do not know that any further comment is necessary,—no, sir. It seems to me that Kentucky furnishes a sort of laboratory test, so to speak, of the idea, if it exists, that the extension of the Official Territory level into Southern Territory, is going to revolutionize industry in the South.

Q. Now you have told us, Mr. Morris, that intrastate in Kentucky you have the Official level.

A. Yes, sir, approximately. Of course, that furnishes another illustration in point, Mr. Grubbs. That was the contention made in the intrastate case, that the extension of the Official Territory level, which obtains at the Ohio River cities, and on parts of the C. & O. line, to the balance of the state, would spread industry; and yet, in the study I have here, made by some member of the state staff, it is indicated that industry is still concentrated in Campbell, Kenton and Jefferson Counties, the counties where it has always been.

Q. And those are the counties that are located along the Ohio River, are they not?

A. Yes, sir, that is correct, where the industry has been [fol. 4036] concentrated for a very long time; for—well, almost since the beginning.

Q. Does any other section of your exhibit show the precise relationship of the Kentucky interstate rates to the Official Territory rates?

A. Yes, sir, it does; Section 4, sheets 1 to 7, shows the basis for my statement that the interterritorial rates between Kentucky and Official Territory are approximately 10 per cent higher than the Official level. I believe that what I have shown there represents a rather fair test. I have taken representative cities in the North and East, and I have shown the rates between those cities and every point in the state of Kentucky having a population of 1,000 or more. I do not know any better way to get an idea of the relationship of rate levels.

Q. These are the interstate rates between points in Official Territory and points in Kentucky, are they?

A. Yes, sir, that is correct. The final figure of all is a 9.8 per cent excess over the Appendix E scale, for those distances.

By Chairman Aitchison:

Q. That is a simple arithmetic average of all of them, is it?

A. Yes, sir.

Q. Do these figures which you have given here include any of the general increases?

[fol. 4037] A. They do not include the Ex Parte 148 increases, no, Mr. Chairman, but they do include the others.

By Mr. Grubbs:

Q. Now, Mr. Morris, there is one section, namely, Section 1, of your exhibit, that you have not dealt with. Please tell us just what that shows.

A. From my viewpoint it is probably the most important section of the exhibit. I have undertaken to show here what the effect would be upon the Southern commodity rate structure, confining it to the column rates and exceptions, of the prescription of the Appendix E scale, the Official Territory scale, with either the Official Classification ratings or the present Official Exceptions ratings. In the preparation of this exhibit I used the commodities, carload commodities which were included in the exhibit which I offered or presented at the Indianapolis hearing. They are carload ratings or rates all together. I have undertaken in an explanatory statement to describe how I planned the exhibit.

Chairman Aitchison: Do these include the increases?

The Witness: With the exception of the Ex Parte 148 increases. I do want to make this further explanation, Mr. Chairman, of the exhibit, beyond that which appears on sheet 1, because someone apparently misunderstood the exhibit and asked the question on the side; and I thought it ought to be answered in the record. In the first place, I want to make it clear that the exhibit is not intended to [fol. 4038] indicate that there is a movement of each of these commodities between Atlanta, Georgia, and the five representative cities that I have selected and included in it. What it is intended to do is to show in connection with representative distances and cities what the effect would be on the entire adjustment. The rates between Louisville and Atlanta are based upon the K-2 scale, and what will happen in the case of the Louisville-Atlanta rates will happen in greater or less degree to all the other rates in the territory, dependent upon the distances between the points. Now, that is true in a like way of the rates between Atlanta and Central Freight Association, Atlanta and Chicago, in relation to the rates between Southern Territory and Central Territory, and between Atlanta and New York I think we have a fair picture of what will happen between the South and Trunk Line Territory and so on, with Dallas representing Southwestern Territory and Omaha representing Western Trunk Line Territory. Of course, the exhibit is rested on the assumption—I suppose it is an assumption—

of what would happen if these Appendix E rates were prescribed as reasonable maximum and the ratings either in the Official Classification or the Official Classification and its exceptions were prescribed as reasonable maximum ratings.

I do not mean to leave the impression that I understand these ratings or rates are directly involved in the [fol. 4039] proceeding. What I am trying to demonstrate is that if this level of rates and such ratings were prescribed as reasonable maximum, then we would have reasonable class rates and ratings which would produce rates lower than the existing commodity rates to the extent shown in the exhibit, and I do not see how we could long hope to maintain commodity rates higher than this Commission has prescribed as reasonable maximum even though they were prescribed as class rates. Now, I have a summary of the exhibit at sheet 34. I would just like to refer to two percentage figures.

Mr. Northcutt: Page 4?

The Witness: Page 34. In this summary it is shown that if the Official Classification proper ratings and the Appendix E scale were applied, it would reduce 71.2 per cent of the rates shown in the exhibit, commodity rates, and increase 27.4 per cent. If the exceptions were prescribed in connection with the Appendix E scale, it would reduce 93 per cent of those rates and increase only 5.6.

By Mr. Grubbs:

Q. In short, if you pull down your Southern class rates to the official level, you leave a lot of commodity rates in the South sticking up above them?

A. That is what the exhibit shows, yes.

Mr. Bee: Mr. Morris, so that I may understand your exhibit, referring to sheet 2, opposite line 24, sugar or syrup evaporator furnaces——

[fol. 4040] Chairman Aitchison: We cannot hear you, Mr. Bee.

Mr. Bee: Refer to page 2, line 34, sugar or syrup evaporator furnaces. There is no rating shown under Dallas?

By Mr. Bee:

Q. Does that mean there would be no change from Atlanta to Dallas?

A. What line is that again?

Q. 24.

Mr. Grubbs: 24.

The Witness: I thought you said 34.

Mr. Bee: 24.

The Witness: Now, you drop there, Mr. Bee, and you go to furnaces without pans——

Mr. Bee: No rating.

The Witness: Furnaces without pans—is that what you are talking about?

Mr. Bee: Yes.

The Witness: That means that there is no column rating between the South and Dallas today, so it would not be affected at all.

By Mr. Bee:

Q. How would you take that into the percentage? That is what I am trying to get at.

A. You mean, into the count?

Q. Yes.

A. I just did not count it.

Q. You just did not count it?

[fol. 4041] A. No.

Mr. Bee: All right. Thank you.

By Mr. Grubbs:

Q. Mr. Morris, did you hear the testimony of Witness Morrell?

A. I did.

Q. What have you to say about his statement that the South has many small industries and few large ones due, as he expressed it, to the low purchasing power of the South and the freight rate question, each acting on the other?

A. So far as that statement is concerned, we have large industries in the South and we have increasing industry in the South.

Q. Is it your thought that his own papers disprove that statement?

A. I certainly think so.

Q. What have you to say about his statement to the effect that the Southern class rate structure restricts development in the South? Would your answer be the same to that?

A. I certainly would. I do not believe the class rate structure or anything else has prevented development in the South.

Chairman Aitchison: Now, Mr. Grubbs, of course you are entitled to rebut Mr. Morrell's testimony, but is that not cumulative?

Mr. Grubbs: I have one more question which is not cumulative, your Honor. We have almost annihilated it, [fol. 4042] but I would like to go just one step further.

By Mr. Grubbs:

Q. He referred to a figure of small industries representing 36 per cent of the industries in the South. Do you have some figures on that subject, and if so, I wish you would tell us what they are.

A. Yes. I have undertaken in Section 5 of my exhibit to determine the facts in that respect. While I was at it I included all of the classifications of industries that appear in the Census of Manufactures for 1939. Really, the figure I was trying to analyze was that dealing with plants having value of products of from five to twenty thousand dollars. The information I obtained appears in the first four columns of sheet 1 of Section 5 on that point. It shows, briefly, that his estimate, if confined to the eight Southern states, and I did not undertake to go beyond that, is substantially correct, that we have 35.5 per cent of the industries of that valuation; that is, with respect to products in that group. But I thought it would be interesting to the Commission to see what that figure was for the United States as a whole and I have shown it in the last column. It is 32.9 per cent. It does not strike me that that is any very wide variation in the South from that which obtains in the country as a whole.

I went just a little further and determined the same figures for the states that are altogether or largely in [fol. 4043] Official Territory, and as the second column shows, the figure is 30.6 per cent. I have shown for all of the other classifications the relative percentages in each of those three groups, that is, the South, Official Territory

and the United States as a whole, but I do not think it is necessary to call attention to the figures themselves.

Q. Since uniformity has been the plea of Southern State authorities, I want to ask you if the Southern railroads have had experience seeking some Southern State authorities uniformity in rates throughout the South?

A. Yes, quite a little.

Q. Please tell us the result of those efforts.

A. Well, of course, since the class rate revision in 1928, fixing a scale of rates and basis of rates for application in the South, the Southern railroads have worked to the objective of uniformity in interstate and intrastate rates. Now, it is true that we have uniform class rates, but we are far from uniformity in the case of many of our commodity rates by reason of orders of the State Commissions in the several states that we traverse from the Ohio River to the South. I dare say that in the main we have achieved a rather large degree of uniformity, but we have not succeeded in obtaining complete uniformity. As a matter of fact, we cannot have complete uniformity regardless of the regulatory bodies. Conditions in the several states or [fol. 4044] sections of our railroad necessitate departures from uniformity, frequently.

Q. By that do you mean that each state recognizes different conditions in its own territory?

A. That is exactly what I mean, and we recognize them ourselves in some instances.

Mr. Grubbs: The witness is ready for cross examination.

Chairman Aitchison: Do you offer your exhibits?

Mr. Grubbs: Yes. We offer in evidence Exhibits 179 and 180, if the Chairman please.

Chairman Aitchison: Without objection, they are received.

(Exhibits 179 and 180, Witness Morris, received in evidence.)

Chairman Aitchison: Mr. Norman.

Cross-examination.

By Mr. Norman:

Q. Mr. Morris, you referred to sheet 10 of Spottswood's Exhibit 76, I believe it is——

A. Sheet 10, chart 3?

Q. I beg your pardon?
A. Chart 3?
Q. Yes.

Mr. Grubbs: Yes. That is right. Chart 3.
The Witness: All right.

[fol. 4045] By Mr. Norman:

Q. You have said that on newsprint paper, which was shown to be 155 per cent in Official Territory and asphalt paint shown to be 153 per cent, that there was no movement.

A. From the points which he had used.

Q. You would not expect any movement on that sort of percentage basis, would you?

A. (No answer.)

Q. In other words, if the rate is 159 per cent of the Official Territory basis of rates, you would not expect it to move, would you?

A. I do not think that necessarily follows, Mr. Norman. That would depend entirely on whether it competes with that article in Official Territory.

Q. Well, there is no newsprint paper produced in Official Territory, is there?

A. Oh, yes; the Canadian mills and the like. Perhaps I did not make this clear: My principal objection to the illustration there is that newsprint paper manufactured for the Southern publishers is produced at Herty, Texas; and if you want any illustration, you ought to use the newsprint origins that furnish the paper for the South, the Ohio River, and the North, to the extent they want it in the North.

Q. Did I understand you to say that under this traffic [fol. 4046] test you were talking about that the Louisville and Nashville had, 33.9 per cent of the total carload traffic, exclusive of coal, was represented by manufactured products and miscellaneous?

A. No. You are close to being right. I said that the test that Dr. Aitchison introduced showed that.

Q. For the Louisville and Nashville Railroad?

A. No. For the South as a whole.

Q. Oh.

A. I did say that for the Louisville and Nashville Railroad the test I have showed that excluding coal, manufactures and miscellaneous moving northbound into Official

Territory represented 33 per cent of the total carloads moved.

Q. Moving northbound into Official Territory?

A. That is right.

Q. And is about as high a percentage as obtains in Official Territory, is it not?

A. I do not know. I have not compared it with the percentage in Official Teritory. I simply got that figure for this purpose, Mr. Norman: The newspapers have been full of the talk that we do not ship any manufactures into the North, and I just wanted to find out what the Louisville and Nashville Railroad did ship. I went to a lot of difficulty to get it.

Q. In demonstrating that, are you not also practically [fol. 4047] demonstrating that it is not so that the consist of the traffic is so different in the South than what it is in Official Territory?

A. I do not think so.

Q. It is not true that it is raw materials and low grade commodities in the South and manufactured articles in the North?

A. Mr. Norman, that is only the movement from the South to Official Territory. We have a tremendous movement within the South.

Q. Now, you referred to a number of the exhibits of Mr. Spottswood, but what have you to say about his showing on Table 5 that the goods sold in Official Territory to other parts of the country have a value of $125.77 per ton, while those sold from the South and West have only a value of $24.32 per ton?

A. I have not anything at all to say about that.

Q. You did not check that or find anything wrong with it, at any rate?

A. I simply say I have not anything at all to say about it. I looked at it, and did not find anything I could do with it.

Q. Now, please turn to sheet 9, Section 2 of your exhibit.

A. Which one?

Q. Sheet 9, Section 2.

[fol. 4048] A. Yes.

Q. You commented on the fact that while the country as a whole showed a reduction in the value added by manufacture, for example, 1939 as against 1927, that the South showed an increase. Now, is it not true that the South,

even with its increase, is still way behind the rest of the country?

A. Oh, yes—well, you say "way behind". I say it is a good deal less. I would rather have that language.

Q. For 1939 it was about 8 per cent of the total for the country, whereas the population was about 16 per cent, is that not true?

A. I do not remember the population figure, but of course the other figure is shown right there.

Q. It figures out about 8 per cent of the total value added by manufacture, even after it has had this big increase of $203,000 in the 12 years from 1927 to 1939; it was still only about 8 per cent of the total of the United States, whereas the population is 16 per cent.

A. I am accepting your figure of the population, and the per cent for that matter, although I am sure you are right.

Q. Now, you referred to the 13494 decision and the class rates established in that decision and you said that was not a piecemeal establishment of rates, which, of course, is true. Is it not also true that that has been broken down piecemeal?

[fol. 4049] A. I do not think it has been broken down, Mr. Norman. It has been modified.

Q. And largely departed from by exceptions to the classification?

A. Oh, no.

Q. Exception ratings?

A. Exceptions to the classification do not depart from the basic principles of the 13494 adjustment at all. They just change the rating from one class or percentage to another.

Q. Well, it departs, however, from the rates that result from them?

A. If you mean that we do not apply the 13494 class rates on all of our traffic, certainly you are correct.

Q. And there is not very much left, is there? I mean, when 13494 was prescribed and that scale was prescribed, there was a certain classification that applied to the scale. That classification has been largely departed from, has it not, since then?

A. The classification?

Q. Yes.

A. I do not think the classification has been materially changed.

Q. Well, it has not been changed, but it has been departed from by exceptions.

[fol. 4050] Chairman Aitchison: It has ben changed, too.

The Witness: It has been changed to some extent, yes.

Chairman Aitchison: Since September, 1940, the ratings, less than carload, for the first three classes, have been made uniform.

The Witness: You are correct.

Mr. Grubbs: 13494 did not fix ratings, did it?

Chairman Aitchison: No.

Mr. Norman: But was based on the existing rates.

By Mr. Norman:

Q. My point is that since then you have departed entirely from the 13494 scale by changing ratings and by publishing exceptions, is that not correct?

A. This is what you overlook, it seems to me: When the class rates were prescribed in 13494, the Commission did not prescribe them for application in lieu of all of the commodity rates that we then had. I venture to say that we had as many commodity rates in 1927 as we have today. They prescribed a system of class rates.

Chairman Aitchison: As maximum, you mean?

The Witness: As maximum, yes, sir. Now, as a matter of fact, there was no order, as I remember it, except in the case of the Florida rates. Following the establishment of the class rates—and I went through a good part of it—we set out to revise the commodity rates that were in effect, and to follow the principles of the class rate structure. We [fol. 4051] wound up, my guess is, with about the same number of commodity ratings we had when the Commission took a hold of the Southern class rate adjustment.

By Mr. Norman:

Q. I am not talking about commodity rates, Mr. Morris.

A. You are talking about exceptions, and I say they are commodity rates.

Q. Oh, well.

A. Very largely.

Q. Well, as a matter of fact——

A. Will you let me explain that, please?

A. All right.

A. Because it will be misunderstood if I do not.

Q. All right.

A. It seems to me that where, merely for convenience, you have used a percentage of the class rates to fix the level of your commodity rates, the real status or character of the rate is not changed. It is still a commodity rate. Now, I do not know whether you will agree with me on that.

Q. I agree with you on that.

A. I still regard most of these commodity column rates which, for purely mechanical reasons, are in the exceptions as commodity rates.

Q. Let's leave out of consideration the commodity rates that you had at that time. Let's just take the classifica-
[fol. 4052] tion ratings that you had at that time which were applied to the 13494 scale. Haven't you very largely departed from those classifications by publishing exceptions? You published 3500 of them two years ago.

A. That was just one group of less than carload commodities, Mr. Norman. I would regard those as true classification exceptions, not commodity rates.

Q. Yes. That is right. My point is, that while 13494 was made a scale and applied ratings, at least in a general way, since that time, gradually, step by step, piecemeal, month by month and year by year it has been broken down until there is not much left of it, is that not correct?

A. Mr. Norman, someone would have to present precise figures to ever convince me of that.

Q. You do not think that is true?

A. No, sir, I do not.

Mr. Norman: I thought it was.

By Mr. Norman:

Q. How do you explain, for instance, these 3500 that you took out of here in one fell swoop?

A. Maybe I do not understand you at all. To me that has nothing to do with the 13494 class rate structure, merely because you move 3500 commodities from one percentage column to another.

Q. My point is, though, that that does break down what resulted from 13494.

[fol. 4053] A. Well, we perhaps will never agree, but to my mind, it certainly does not show that there is anything inherently wrong with the 13494 class rates, because we con-

cluded to reduce the ratings on some of the articles to which those class rates applied.

Q. Now turn to sheet 2 of your Section 3.

A. Yes.

Q. I do not understand item 14.

A. Just a minute. Sheet 2 of Section 3?

Q. Yes.

A. All right.

Q. Item 14.

A. Yes.

Q. Iron and steel and their products, except machinery. You show for 1927—this is Kentucky—that there were five establishments with 4,542 wage earners, wages were $6,639,000 and value of products $35,987,000, and in 1939 they do not have any. What is the answer?

A. I think the answer lies in the fact that they have been transferred, probably, to the grey iron and semi steel castings. You wound up with nine of those.

Q. I am sorry, but I did not hear your answer.

A. I say, the answer will lie in the fact that they have been transferred in the census reports to the grey iron and semi steel castings, or they may have been included in that [fol. 4054] very troublesome classification on sheet 3, line 8, of other industries. That was the great difficulty that I had in compiling this statement, because the census department would switch descriptions on me. I tried to match them up the best I could.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Back on the record.

The Witness: I found that difficulty in a number of cases, and I undertook to throw kindred industries and the totals together as best I could, but I finally ran up against that catch-all of other industries and the total figures in the finality are the most dependable, it seems to me.

Mr. Northcutt: If you will look over at sheet 6 of that section, you will find where the iron and steel industry is reported. It is reported under other industries.

Mr. Norman: Under what?

Mr. Northcutt: Under other industries.

Mr. Norman: How do you know?

Mr. Northcutt: It is on sheet 6; it is shown on sheet 6.

The Witness: I have shown for 1939 what the "Other industries" list is composed of to the extent that the census report shows it, but they do not indicate in 1927 what "Other industries" were.

[fol. 4055] Mr. McCollester: In that connection I notice from our Exhibit No. 159, page 75, the census report shows for steel works and rolling mill products, in 1939, 13,496 wage earners in Alabama, and it shows that the 1939 figures are incomplete. I do not know whether that corresponds with the iron and steel and their products that you have shown as your item No. 14.

The Witness: Mr. Norman was speaking of Kentucky, Mr. McCollester.

Mr. McCollester: Oh. I see.

Mr. Northcutt: May I call your attention to the fact that iron and steel and their products, except machinery, is shown on line 14. The value of products for the year 1927 is shown as $35,987,067. Now, for 1939 the same thing is covered on sheet 6 in line 26, and is shown to be $50,158,769. It is also shown on that page for 1939 under this reference "Other industries" by industry groups. That shows an increase in value of those manufactures.

Chairman Aitchison: Is there anything further?

Mr. Norman: One more question.

By Mr. Norman:

Q. Mr. Morris, turn to sheet 1 of Section 7 of your exhibit. You show here ten different articles or commodities.

A. Yes.

Q. The interterritorial rates from the South to the North [fol. 4056] are shown to be higher than within Official Territory in five cases, lower in four, and the same in six. In other words, two-thirds of them that you have shown are either the same or lower. Do you think that representative at all of the situation that exists?

A. Mr. Norman, when I described that chart I said that neither my chart nor Mr. Spottswood's chart is representative of the situation that exists; that in my judgment any reasonably competent rate clerk can produce any sort of a chart he wants.

Q. I understood you to say that, and you have produced the result you wanted, have you not?

A. No.

Q. By showing two-thirds of them are lower or the same?

A. Let me make it clear right now that my chart is not intended to be representative of the Southern rate level.

Mr. Norman: I see. That is all, thank you.

Chairman Aitchison: Are there any other questions of Mr. Morris?

Mr. Smelker: I have one question, Mr. Chairman.

Chairman Aitchison: Mr. Smelker.

By Mr. Smelker:

Q. Turn to sheet 12 of Section 1, please, Mr. Morris.

A. Yes.

Mr. Grubbs: What section?

[fol. 4057] Mr. Smelker: Section 1.

The Witness: Sheet 12?

Mr. Smelker: Yes.

The Witness: All right.

Mr. Smelker: Line 45.

The Witness: Yes.

By Mr. Smelker:

Q. In the first two columns the exception rating is higher than the classification rating. Have you any explanation for that? Is it an error, or does that really happen?

A. It is quite unusual. I simply took the ratings as they appeared in the exceptions to the Official Classification.

Q. There are several others like that throughout the exhibit. I was just wondering what the explanation of it was.

A. I have no explanation for it because I simply took the Northern lines' exceptions.

Mr. Smelker: That is all.

Chairman Aitchison: Is there any further examination? (No response.)

Mr. McCollester: I may say, Mr. Chairman, that I was wrong in referring to Alabama, but our exhibit does show for 1939 for Kentucky, 4,974 wage earners, in iron and steel, steel works and rolling mills.

Chairman Aitchison: If there is no further examination [fols. 4058-4059] of Mr. Morris, he may be excused.

(Witness excused.)

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: We will adjourn until 9 o'clock tomorrow morning.

(At 9:40 o'clock P. M. November 25, 1942, adjourned to 9 o'clock A. M. November 26, 1942.)

[fol. 4060] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 28300

CLASS RATE INVESTIGATION, 1939

Docket No. 28310

CONSOLIDATED FREIGHT CLASSIFICATION

Hotel Deshler,
Columbus, Ohio,
November 26, 1942.

Met, pursuant to adjournment, at 9 o'clock a. m.

Before: Division—2 of the Commission.

Hon. Clyde B. Aitchison, Chairman of the Commission, presiding. Hon. Walter M. W. Splawn, Commissioner, Hon. J. Haden Alldredge, Commissioner, and a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by Mr. John J. Murphy, South Dakota Public Utilities Commission; Mr. George McConnaughy, Public Utilities Commission of Ohio; and Mr. W. H. Scott, South Carolina Public Service Commission.

Present: Paul O. Carter, Examiner, W. J. Kobel, Examiner, T. Leo Haden, Examiner.

Appearances: As heretofore noted.

[fol. 4061] PROCEEDINGS

Chairman Aitchison: Shall we proceed.

Mr. Grubbs: If the Commission please, at this time I would like to recall Mr. W. F. Kennedy.

Chairman Aitchison: He has been sworn.

Mr. Grubbs: Yes, sir.

W. E. KENNEDY recalled:

Mr. Grubbs: With your approval, if the Commission please, we would like to present this testimony by written statement, questions and answers. It has been distributed to the parties.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record. Proceed.

Direct examination.

By Mr. Grubbs:

Q. You are the same Mr. Kennedy who testified in this proceeding at the Indianapolis hearing, are you not?

A. Yes, sir.

Q. Have you examined the exhibits presented by Mr. Ford K. Edwards, No. 12, styled: "Territorial Rail Costs Based on a Separation of the Out-of-Pocket and Constant Expenses-1939" and Exhibit No. 13, styled: "Territorial [fol. 4062] Unit Costs for Railroad Freight Service-1939?"

A. Yes.

Q. What have you to say about the difference between the procedure followed by Dr. Edwards in his Exhibits Nos. and 3 and that followed in his Exhibits Nos. 12 and 13?

A. The only difference in the procedure of any consequence is that in Exhibits Nos. 12 and 13, a further separation of both the terminal expenses and the line haul expenses, as between out-of-pocket on the one hand and constant expenses on the other, has been made. The terminal portion of the constant expenses is charged pro rata to each ton or hundredweight regardless of the type of car used in the transportation and the line haul proportion of the constant expenses is distributed pro rata to each ton mile or hundredweight mile regardless of the type of car used. All of the basic expense groups remain unchanged and the same factors are used in developing the unit costs for the out-of-pocket expenses, as were used in Exhibits Nos. 2 and 3, for developing the total expenses. The expenses here referred to, include taxes and joint facility and equip-

ment rents. In Exhibits Nos. 2 and 3, a multiplier was given, which, when applied to operating expenses, taxes and rents, produced a total which included less than carload and passenger operating deficits and a return of 5¾ per cent on the recommended value used by Dr. Edwards. [fol. 4063] In the present Exhibits Nos. 12 and 13, the out-of-pocket proportion of operating expenses, taxes, and rents has been separately determined, and a return of 4 per cent on the recommended value of equipment and a return of 4 per cent on one-half of the recommended value of the remaining road property has been included in the out-of-pocket group. The constant expenses, in addition to including the constant proportion of operating expenses, taxes and rents, also includes 4 per cent return on one-half of the recommended value of property other than equipment and less than carload and passenger operating deficits. In other words, there is practically no difference in the procedure, except for the introduction of the separation, involving a showing of the constant expenses.

Q. Now, in your Exhibit No. 18, Part 1 thereof, you discussed certain defects which you think exist in the formula and procedure in Exhibits Nos. 2 and 3. Does this discussion apply to Exhibits Nos. 12 and 13?

A. Yes. There have been no changes made in the formula and procedure used in Exhibits Nos. 12 and 13 that would remove or cure the defects referred to in Part 1 of my Exhibit No. 18, with the exception that in so far as territorial comparisons are concerned, the effort to treat certain of the expenses and a proportion of the return on investment as constant, partially complies with my criticism of his procedure in developing the relative situations as [fol. 4064] between rate territories as given at Page 14 of Part 1 of my Exhibit No. 18.

Q. In Part 2 of your Exhibit No. 18, Sheet No. 4, you developed the comparative status between the Southern Region and the Eastern District (including Pocahontas Region) if the Edwards' procedure had been applied to the 10-year period, 1930 to 1939, inclusive. Does the Edwards' procedure in Exhibit No. 13 change the showing there made?

A. Yes. The procedure in Exhibit No. 13 necessitated a revision of Sheet No. 4 of Part 2 of Exhibit No. 18, and I now file for identification Exhibit No. 181.

Mr. Grubbs. While we are marking this exhibit, may we mark the other one also for identification at the same time, the smaller exhibit, as No. 182.

(Exhibits 181 and 182, Witness Kennedy, marked for identification.)

By Mr. Grubbs:

Q. Will you please proceed, Mr. Kennedy, with your description of your Exhibit No. 181 for identification.

A. This exhibit contains 7 parts, designated respectively Identification Nos. 4, 5, 6, 7, 8, 9 and 10, the first of which, Identification No. 4, is a revision of Sheet No. 4 of Part 2 of my Exhibit No. 18, necessitated by the separate development of the constant expenses and 4 per cent return on the recommended value used in Edwards' Exhibit No. 13. In Exhibit No. 12, Chapter 1, Page 1, Dr. Edwards states: [fol. 4065] "For the purpose of determining the full distributed expenses in the present cost study, the constant expenses are distributed over the revenue tons and revenue ton miles of carload traffic handled after deducting the contribution, if any, made toward such expenses by the less carload and passenger servies. This has the effect of spreading the constant expenses over the revenue producing units of traffic, ignoring differences of ability to pay. In so far as the constant expenses are concerned one ton is treated as no different from any other ton." In preparing what is designated Identification No. 4 of my Exhibit No. 181, the constant expenses have been treated as applicable, pro rata, to each ton. Sheet No. 3 of Part 2 of my Exhibit No. 18, shows the per ton mile results, including 5.75 per cent return on investment.

Inasmuch as Dr. Edwards has used 4 per cent in his Exhibit No. 13, the per ton mile results for the 10 years, 1930 to 1939, inclusive, have been stated on the basis of including a 4 per cent return and included in the present exhibit on this basis on Line 9.

This exhibit shows that if Dr. Edwards' formula and procedure, as used in Exhibit No. 13, were applied to the 10-year period, 1930 to 1939, inclusive, that the ratio of the Southern Region operating expenses, taxes, rents, less than carload and passenger operating deficits, and 4 per cent [fol. 4066] return, to the same items for the Eastern District, including the Pocahontas Region, is 1.137; in other

words, the Southern Region is 13.7 per cent higher than the Eastern District, including the Pocahontas Region. This is Identification No. 4, of Exhibit No. 181 for identification.

Q. Is there anything further you wish to add to your statement?

A. No, sir.

Q. Is there any further revision to be made of Sheet 4 of Part 2 of your Exhibit No. 18?

A. Yes. My attention was called, by the Bureau of Statistics, to certain errors which existed in the tons carried for the year 1939, and Identification No. 8 of this exhibit contains the necessary corrections. The changes made do not affect the ratio of the Southern Region to the Eastern District, including Pocahontas Region, as it remains as shown in the original exhibit, 1.094.

Q. Do you have any comments to make as to the Edwards' procedure in developing the so-called out-of-pocket expenses and constant expenses?

A. Yes, sir. I find the following explanation given in Chapter VI, page 86 of Exhibit No. 12,—and this is a quotation from Dr. Edwards' explanation—: "The freight out-of-pocket operating expenses, rents and taxes developed for all Class I railroads in this proceeding are based on 72 [fol. 4067] per cent of the total of these expenses. This percentage was computed by applying to each account the applicable percentage shown in exhibit No. 2, Table 19, pages 73-77. No change has been made in these figures by reason of the further research made as they are within the range referred to above."

Footnote 3—and this is also part of the explanation—states:

"The completion of the studies reviewed in Chapters IV and V indicate that the out-of-pocket expenses in the East, considering the carriers as a whole, constitute a somewhat larger per cent of the total expenses than in the South and West. However, because of the limitations in time uniform percentage was applied in all territories."

The effect that I get from this explanation is that the percentages shown in Exhibit No. 2, Table 19, are those that were finally used in developing the out-of-pocket cost.

On referring to table 3 of Exhibit No. 13, I do not find where 72 percent has been used, as separate out-of-pocket

and constant percentages are given and used in separating each of the 10 groups of expenses and I have so far been able to determine how these percentages were found separately for each group. However, I note that the percentages for the United States as a whole have been applied alike to each of the territorial groups and further that [fol. 4068] for the United States as a whole, the out-of-pocket proportion of operaging expenses, rents, and taxes is 72.29 per cent. Even with this explanation, it is still not clear how the out-of-pocket expense of 72.9 was stated and applied to each of the groups.

It thus appears that Dr. Edwards still relies on the ont-of-pocket percentages given in Table 19, Page 75 of Exhibit No. 2 by accounts or groups of accounts.

It is noted that these percentages are derived from several sources, some from studies made by the American Railway Engineering Association, some from studies made by the Engineering Section of the Bureau of Valuation, and some based on estimates made by Dr. Edwards.

In connection with locomotive repairs, these are taken as 100 per cent out-of-pocket. I recall that in settlement with the United States Railroad Administration of maintenance matters arising out of Federal Control and in the settlements under the so-called Guarantee Period, 80 per cent of locomotive repairs was used as varying with the volume of traffic and similarly as to freight train car repairs, where Dr. Edwards uses 100 per cent as the out-of-pocket proportion, that 60 per cent was considered to be variable with the volume of traffic.

Depreciation on equipment is treated by Dr. Edwards as being 100 per cent out-of-pocket, whereas it appears that [fol. 4069] this particular expense is variable with the volume, at most only to the extent that investment in equipment is shown to be variable.

Dr. Edwards has used as out-of-pocket, 100 per cent of yard expenses, exclusive of enginehouse expenses, which include the wages, fuel and supplies, etc. in operating yard engines and there is no question but what the out-of-pocket proportion of these expenses is considerably less than 100 per cent.

Of course, it should be understood that the exact amount of the out-of-pocket expenses is governed to a great extent by circumstances surrounding the situation which is under

investigation. Applied to certain situations, out-of-pocket expenses would be a very small percentage of the total, but Dr. Edwards has explained that he approaches the matter from the long range viewpoint, but even so, in my opinion, his 72 per cent substantially overstates the out-of-pocket proportion of operating expenses, rents, and taxes for the reasons given in the foregoing.

By Chairman Aitchison:

Q. Right there, have you attempted, in the course of your study, to recast Dr. Edwards' study with the corrections which you contend should be made?

A. The out-of-pocket proportion?

Q. No, the entire study.

A. I have an exhibit which will follow here, along that line.

[fol. 4070] Chairman Aitchison: Continue.

A. (Continuing) In this connection I note from summarizing the separation of the expenses, taxes, and rents, and 4 per cent return on the recommended value, as used by Dr. Edwards, as between out-of-pocket and constant for the Southern Region, taking the data from Tables 3 and 4 of Exhibit No. 13, that the out-of-pocket proportion is 65.12 per cent and that the constant proportion is 34.88 per cent.

The Southern Region net ton miles per mile of road for the year 1939, were 1,114,168 and for the Eastern District, excluding Pocahontas Region, were 2,362,362, the ratio of the East to the South being 2.1203.

Now, if we multiply the Southern Region out-of-pocket expenses by the ratio of 2.1203 to increase these expenses to the basis of the Eastern District volume, we have $486,941,570., and adding thereto the constant expenses, which are said not to vary with volume, $123,009,560., gives a total of $609,951,130. as the approximate Southern Region expenses if it handled the Eastern District volume.

The Southern Region ton miles at the Eastern District volume per mile of road would amount to 90,211,517,694 and the cost per ton mile would be 6.761 mills at the Eastern District volume of traffic. The cost per ton mile for the Southern Region at Southern Region volume of traffic is 9.138 or 35 per cent greater than what it would be at the [fol. 4071] Eastern District volume of traffic. Thus, if the conclusion reached by Dr. Edwards as to the relative proportions of out-of-pocket expenses and constant expenses

is sound, then the costs of the Southern Region are approximately 35 per cent greater than those of the Eastern District.

By M. Grubbs:

Q. Do you have anything further to add in this connection?

A. No, sir.

Q. Do you have comments to make in regard to the basis used by Dr. Edwards for distributing the terminal proportion of the constant expenses?

A. Yes. On reference to footnote 13 on each of the pages of Table No. 5, Exhibit No. 13, I find that the constant proportion of the terminal expenses for the United States as a whole and for each of the territorial groups was divided by the number of tons or hundredweight carried, in order to develop the cost per ton or hundredweight. The procedure followed was to divide the carload revenue tons originated, plus tons terminated, by 2 to obtain tons carried. This is not far wrong for the purpose of obtaining the true number of tons carried in so far as the United States as a whole is concerned, but it develops very important differences when applied to territorial groups.

For purposes of illustration, I will use the New England Territory, as reported in Statement 41100, "Freight [fol. 4072] Commodity Statistics" for the year 1939, New England Region.

These statistics show that there were 14,928,135 tons of carload traffic originated and 34,971,291 tons terminated, which added together, and divided by 2, produce 24,949,713 as the number of tons carried, which would be used under the Edwards' procedure.

As a matter of fact, there were 34,971,291 tons terminated in this territory. There could not have been less than this figure actually carried, the true number of tons carried being probably somewhat greater than this figure. This same fault in the Edwards' procedure exists in all of the territorial groups.

By Mr. Smelker:

Q. Just a moment, right there, Mr. Kennedy, please. Did you not discuss this last question and answer with Dr. Edwards?

A. Yes, sir, that is true. I might explain that there seems to be a failure in the exhibit to properly describe——

By Mr. Grubbs:

Q. Pardon me, but what exhibit are you referring to now, Mr. Kennedy?

A. Dr. Edwards' Exhibit No. 13, Table No. 5.

Q. All right.

A. I was about to observe, there seems to be a failure to properly describe the purpose, or the method there. It is merely indicated that it was the intention to use the total tons carried. I find, however, on discussing the matter [fol. 4073] with Dr. Edwards, that his intention was to use tons terminal, and that he used the short-cut procedure in order to avoid having to multiply his cost per ton by 2 after it had been platted. With that explanation, the procedure is correct; but I desire to remark in that connection that it places this particular expense on the same basis that the other terminal expenses are treated on in his cost scale, and that is that they are platted so that they relate only to intraterritorial traffic.

Q. Have you examined Exhibit No. 86, presented by Mr. Henry J. Saunders?

A. Yes.

Q. What essential difference do you find between his showing and that of Dr. Edwards?

A. As to Parts 1 to 4, inclusive, I do not find anything therein that differs from the showing made in the Edwards Exhibit No. 3, except that Mr. Saunders has confined his showing to box car traffic, whereas Dr. Edwards presents the comparative territorial status for other types of cars, as well as box cars.

Q. I take it then, that the discussion of the defects in the Edwards' study, given in Part 1 of your Exhibit No. 18, applies with equal force to Parts 1 to 4, inclusive, of the Saunders' Exhibit.

A. Yes. That is correct.

[fol. 4074] Q. Mr. Kennedy, at page 1637 of the record, Mr. Saunders gave certain figures based on what has been called Identification No. 2 of your Exhibit No. 18, which were ascertained by excluding the Pocahontas Region from Official Territory. These figures, as I understand it, were

for the year 1939 only. Do you have an exhibit showing the results for the years 1928 to 1939, inclusive?

A. Yes. Identification No. 5 of my Exhibit No. 181 for identification, shows the results, comparing the Eastern District with the Southern Region. This was prepared along the same lines as has heretofore been explained, for similar comparison of the Eastern District.

Chairman Aitchison: Mr. Kennedy, we are unable up here, to hear a word you are saying.

By Mr. Grubbs:

Q. Will you start over again, please, Mr. Kennedy.

A. Identification No. 5, of my Exhibit No. 181, shows the total freight service operating expenses, taxes, joint facility and equipment rents, 5.75 per cent return on investment in road and equipment, including cash and materials and supplies, and passenger deficit, per revenue-ton mile, for the Southern Region and the Eastern District, excluding the Pocahontas Region. This exhibit is similar to Identification No. 2 of my Exhibit No. 18, the difference being that this exhibit excludes the Pocahontas Region from the [fol. 4075] Eastern District.

The per ton mile results appear on Line 19 of Sheets Nos. 2 and 3, under the captions, "Southern Region" and "Eastern District (excluding Pocahontas Region)" respectively, for each of the years 1928 to 1939, inclusive, for the 12 year period, 1928 to 1939, inclusive, and for the 10 year period, 1930 to 1939, inclusive.

The ratio of the Southern Region per ton mile results to the Eastern District (excluding the Pocahontas Region) is given in Line 20 on Pages Nos. 2 and 3. The per ton mile results shown on Sheets Nos. 2 and 3 are not adjusted to give effect to the substantially longer haul in the Southern Region, and are likewise not adjusted to take into consideration the difference in the composition of traffic as between the two territories.

Sheet No. 4 of my statement marked Identification No. 5 develops the necessary adjustment for these differences, using the Edwards' procedure from his Exhibit No. 13, and following the same plan that was explained in detail in my previous testimony in regard to Sheet No. 4 of Identification No. 2 of my Exhibit No. 18.

The element of return has been included on Sheets Nos. 2 and 3 on the basis of 5.75 percent but, inasmuch as Dr. Edwards used 4 per cent in his Exhibit No. 13, the return has been changed to this basis in using the per ton mile [fol. 4076] results, as is shown in Line 9 of Sheet No. 4.

This sheet of the exhibit shows that if the Edwards' formula and procedure has been applied to the 10 year period, 1930 to 1939, inclusive, that the ratio of the Southern Region cost per ton for a haul of 300 miles, considering all traffic, to the Eastern District (excluding Pocahontas Region) cost per ton for 300 miles was 1.069; or in other words, that the Southern Region, for the 10 year period was 6.9 per cent higher than the Eastern District, excluding the Pocahontas Region.

By Chairman Aitchison:

Q. Right there, I would like to ask you this question: What is the basis for the formula which you have used in your Identification 5?

A. Identification 5 states the total cost, including return on investment at 5.75 per cent, upon a per ton mile basis for the 10 years 1930 to 1939, inclusive.

Q. Including taxes?

A. Yes, sir, including taxes and rents. Now sheet 4 of that section of the exhibit contains computations showing that if the Edwards' formula and procedure had been applied for the 10 year period, the ratio of the Southern Region to the Eastern District would have been 1.069, indicating that the Southern Region is 6.9 per cent higher than the Eastern District.

By Mr. Grubbs:

Q. Mr. Kennedy, at page 1637 of the record, Mr. [fol. 4077] Saunders gave some figures showing a comparison of the South with the East, without the Pocahontas Region, and using 4 per cent return on the values used by Dr. Edwards in his Exhibit No. 3. Did you check these results?

A. Yes. I endeavored to check the figures given by Mr. Saunders, but I do not get the same results. I find that the per ton mile cost, excluding the Pocahontas Region, would be 10.89 mills instead of 9.34, as stated by Mr. Saunders, while the South would be 10.53 mills instead of

8.56, as given by Mr. Saunders. The ratio of the South to the East would be 96.7 instead of 91.9, as claimed by Mr. Saunders. In that connection, my attention has been directed to another matter in Saunders' Exhibit No. 86, on page 4. The revenue ton miles are shown there by commodities, but we have been unable to determine from just what source those figures have come. We have found that by dividing the car miles there shown into the revenue ton miles, it produces an average load per car of about 15 tons in each instant, for every type of boxcar, except in one case, and that was in the Pocahontas Region, for gondola and hopper cars. There is something wrong with the figures in there, and also with the computation that is based on them.

Q. Does that complete your answer?

A. That is all on that.

Q. Now, Mr. Kennedy, you stated that Mr. Saunders, in [fol. 4078] his Exhibit No. 86, confined his showing to boxcar traffic and that Dr. Edwards also made territorial comparisons for boxcar traffic. Do you have a section of your exhibit dealing with this subject?

A. Yes. Identification No. 6 of my Exhibit No. 181 sets up the aggregate expenses, taxes, and rents (including passenger and less than carload deficits) assignable to the six car types for carload traffic for the Eastern District, excluding Pocahontas Region, and for the Southern Region. The aggregate carload revenues are also shown separated as to the six car types and the net railway operating income is developed for each of the six car types. The rate of return for each of the six car types is shown, based on the recommended value of property as used by Dr. Edwards. In developing this data, the same procedure followed by Dr. Edwards, in his Exhibits Nos. 3 and 13 has been applied. This, Mr. Chairman, is what I referred to a while ago, when you asked me if I had restated the matter, including all of the corrections.

By Mr. Grubbs:

Q. That is the table that is set forth on the lefthand side of the statement, is it?

A. Yes, sir.

Mr. Grubbs: We might pause for just a moment and look at the table. It is a statement showing the rates of

return on different classes of equipment. I ask that it be copied in.

[fol. 4079] The Witness: The Eastern District and the Southern Region contain the rail systems as grouped by the Interstate Commerce Commission in filing its statistics. The rates of return are then shown.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

The Witness: This is based on the Eastern District, excluding the Pocahontas Region. It has been shown that way because Mr. Saunders made that showing, and so did Dr. Edwards.

	Eastern District excluding Pocahontas Region	*Southern Region*
Box Car Traffic	5.47%	7.03%
Gondola and Hopper Car Traffic	2.50%	.18%
Refrigerator Car Traffic	2.45% Def.	2.75%
Tank Car Traffic	4.89%	5.62%
Stock Car Traffic	1.23% Def.	6.12%
Flat Car Traffic	3.11%	1.04%
Total—All Traffic	3.25%	3.50%

The entire passenger and less than carload operating deficits are included and the total value of property is used so that the rates of return of 3.25 per cent and 3.50 per cent, respectively, are those obtained from all services. It will be noted that the Southern Region is but slightly [fol. 4080] higher than the Eastern District, considering all services. As to boxcar traffic, the Southern Region is 1.55 percentage points higher than the Eastern District, and relating this to the total freight revenues, (Account No. 101) carload, it amounts to $13,460,529 or 7.75 per cent.

Referring to Part 3, Sheet No. 3 of my Exhibit No. 18, it will be noted that the Southern Region gross revenues from boxcar traffic are relatively higher than the Eastern District by 15.96 per cent. If the Southern Region revenues were reduced by 7.75 per cent, in order to show a parity in return with the Eastern District, they would still be relatively higher by 8.21 per cent. Again, we have the situa-

tion where, with parity as regards the rate of return on property value, the Southern Region needs gross revenues which are relatively higher than the Eastern District by 8.21 per cent.

Another feature of the matter which is brought out in this exhibit is that where the Eastern District obtains a rate of return of 2.50 per cent from gondola and hopper car traffic and 5.47 per cent from boxcar traffic in order to obtain the return of 3.25 per cent from all traffic, that the Southern Region has to obtain a rate of return of 7.02 per cent from its boxcar traffic, in view of the fact that the rate of return from its gondola and hopper car traffic is only .18 per cent, in order to obtain a return of 3.50 per cent from all traffic, the latter being not substantially [fol. 4081] different from the rate of return received by the Eastern District from all traffic.

Q. Mr. Kennedy, Mr. Saunders, in his Exhibit No. 86, excluded the Pocahontas Region from Official Territory, giving as a reason that the commodities handled in the Pocahontas Region are made up of from 85 per cent to 90 per cent products of mines. Do you have anything further to say on this subject?

A. For the year 1939, the percentage of products of mines to the total tons carried in the Pocahontas Region was 83.7 per cent. This would indicate that a substantial proportion of the traffic of the Pocahontas lines, 16.3 per cent, consists of commodities other than products of mines and assuming that the average haul on this traffic is approximately the same as the average haul for all traffic, this means that about 5,723,463,197 ton miles of traffic, other than products of mines, is handled in the Pocahontas Region.

This is equal to about 13 per cent of the total traffic handled in the Southern Region on a ton mile basis. The Pocahontas Region handles a volume of 2,145 tons of manufactured and miscellaneous commodities per mile of road while the Southern Region handles only 1,486 tons per mile of road. On the other hand, the Louisville & Nashville Railroad Company handles a tremendous volume of coal and products of mines which, for the year 1939, on this road, amounted to 71.23 per cent of the total tonnage [fol. 4082] carried. The Clinchfield Railroad is predomi-

nantly a coal handling line, 75.25 per cent of the total tonnage carried being products of mines in the year 1939.

Taking the year 1939 for purposes of illustration, the total revenue ton miles of the Louisville & Nashville Railroad Company and the Clinchfield Railroad combined, constitute 24.3 per cent of the total Southern Region net ton miles, whereas the ton miles of the Pocahontas Region constitute only 20.7 per cent of the total net ton miles of the Eastern District, including the Pocahontas Region.

There appears no more justification for excluding the Pocahontas lines from the Eastern District than there would be for excluding the Louisville & Nashville Railroad Company and the Clinchfield Railroad from the Southern Region because of the handling of a preponderance of products of mines.

Q. Mr. Kennedy, in Exhibit No. 86, Section 5, Mr. Saunders seeks to develop a comparison of the number of tons per loaded car, boxcar traffic, Eastern District versus the Southern Region, considering 75 per cent of the traffic handled and considering only tons originated. Do you have any comments as to this?

A. Mr. Saunders seemingly seeks to develop the comparison of tons per car for the Eastern District without the Southern Region from the viewpoint of what influence [fol. 4083] it may have on average costs. Of course, the costs are influenced by both the traffic terminated as well as the traffic originated and it would be improper to draw any conclusion from a consideration of traffic originated only and particularly so, if consideration is given to only 75 per cent of the traffic originated.

In his Exhibit No. 2, Page 28, Dr. Edwards gives the average load for traffic handled in boxcars, considering all of the traffic, both that originated and terminated and this shows that there is very little difference between the Eastern District and the Southern Region in the matter of average number of tons per car for boxcar traffic.

As to the tare weight of boxcars, Dr. Edwards, in Appendix B to his Exhibit No. 2 shows the average for the Southern Region to be 22.4 tons and for the total Eastern District, including New England and Northern Illinois, to be 23.0 tons. There is no such difference in favor of the Southern Region in the matter of tons per car in boxcars as indicated by Mr. Saunders.

Q. What does the next section of Exhibit No. 181, marked —Identification No. 7, deal with?

A. This section of the exhibit shows a comparison of investment of railway property used in transportation service, plus cash and materials and supplies, Class I Carriers, with original cost plus value of lands and rights [fol. 4084] and working capital and with the recommended value used in Dr. Edwards' Exhibits Nos. 3 and 13, as of December 31, 1939, for the Eastern District (excluding Pocahontas Region), for the Eastern District (including the Pocahontas Region), and for the Southern Region.

The original cost, except lands and rights as of January 1, 1940, were taken from Exhibit No. 11, in Ex Parte No. 148, Page 2.

It will be noted that there is practically no difference between the original cost, plus the present value of lands and the amount of investment in railway property used in transportation service, for either of the districts. It will also be noted that the recommended value is substantially below the original cost, plus present value of lands and working capital, for each of the districts.

Q. Now, Mr. Kennedy, please take up the next section of your Exhibit No. 181.

A. This is Identification No. 9 and it is a statement which shows the results of operation for the year 1937 for the Eastern District, including the Pocahontas Region, and for the Southern Region, and the rate of return on investment in road and equipment, plus cash and materials and supplies.

Q. Now, take up Identification No. 10 of your Exhibit No. 181.

[fol. 4085] A. This is a statement which shows for the Southern Region for each of the years 1927 to 1939, inclusive, the results of operation, including income balance, after fixed charges, but before dividends and other appropriations of income.

This statement also shows in the last column thereof the charges which have been made to Profit and Loss for loss on retired road and Equipment not replaced. It will be noted that there were large deficits in the years 1931 to 1935, inclusive, and in 1938, while the income balances in 1936, 1938 and 1939, were rather small in amount.

The average annual income balance for the 13 year period was $10,964,079, while the average annual charges

made to Profit and Loss for loss on retired road and equipment not replaced was $6,966,775.

By Mr. Grubbs:

Q. Have you anything further to add in this connection?

A. No, sir.

Q. Now, Mr. Kennedy, what have you to say about Exhibit No. 182 for identification, the one-sheet exhibit?

Mr. Norman: Just a moment. Before you go into that, may we be off the record for a moment, if the Commission please?

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record.

[fol. 4086] The Witness: I might explain that Identifications 4, 5, 6 and 7 were included in the exhibit as offered at St. Louis. Parts 8, 9 and 10 were sent out under separate cover. They are now combined in one exhibit, including parts 4 to 10.

By Mr. Grubbs:

Q. Will you please proceed, then, Mr. Kennedy, to discuss your Exhibit No. 182.

Chairman Aitchison: Just a moment, before you go into that.

By Chairman Aitchison:

Q. Have you carried through what the difference would be in the ultimate comparison of costs, if for the value used by Dr. Edwards you were to substitute book cost for investment, as indicated in your Identification 7? In other words, what would the result be in the relative position of the two territories as to costs?

A. As an individual item, no, Mr. Commission-, I have not. I would be unable to state what that difference is.

Q. Would it make any appreciable difference, looking at the ratios which are shown at the bottom of the sheet, Identification 7?

A. Identification 7, Mr. Commissioner, is the comparison of the original cost as computed by the Bureau of Valuation, with the carriers' investment in property used for transportation purposes, including cash, material and

supplies. The bottom line of the section, line 12, also [fol. 4087] states what the percentages of the recommended values used by Dr. Edwards, are, to the original cost that would be computed by the Bureau. I do not know whether that is what you have in mind or not, Mr. Chairman.

Q. That is the line I am looking at, and your percentage there is substantially identical.

A. Yes: In other words, the percentage——

Q. Well, you have said "Yes."

A. Very well.

Q. That is sufficient. Now if instead of the 73 per cent of what is contained in this Sheet No. 1 of Identification No. 7, you were to use 100 per cent, what difference would that make in the ultimate result,—speaking now in terms of ratio.

A. Well, as to each of the cost scales—for the Eastern District, for example, of course Dr. Edwards' cost would be increased. Just what the increase would be, in percentage, I have not endeavored to figure. As to the Southern Region, of course, it would likewise be increased also. But as I say, I have not made any computation showing what the effect on the relativity would be,—if that is your question.

Chairman Aitchison: Proceed.

By Mr. Grubbs:

Q. Now, Mr. Kennedy, if there are no further questions at this time, will you please proceed to take up and discuss your Exhibit No. 182 for identification.

[fol. 4088] A. My Exhibit No. 182 for identification is a statement, showing a comparison of the Southern Region density of traffic and cost per revenue ton mile, with similar data for the Eastern District, and for the Eastern District including the Pocahontas Region, for the period 1928 to 1939, inclusive.

Q. What is the significant feature there, if any?

A. The significant feature of this exhibit is to develop that the ratio, from a cost standpoint, between the Southern Region and the Eastern District, of the Eastern District, including the Pocahontas Region, is not constant, but that it varies widely from year to year. The exhibit

also indicates that there is a decided tendency for the cost ratio, speaking from the Southern viewpoint, to increase as the ratio of the Southern density to the Eastern density decreases. This may be observed by looking at the year 1932, where the ratio of density of the South to the East is .427, whereas the ratio of cost shows a ratio of the South to the East of 1.077. In other years, where the density ratio of the South to the East is higher, the cost ratio appears lower. This indicates to my mind that it is essential that a proper comparison be dealt with in considering what the relative cost status may be.

Q. Does that complete your statement, Mr. Kennedy, in connection with your Exhibit No. 182 for identification?

[fol. 4089] A. Yes, sir.

By Chairman Aitchison:

Q. You have not made any computation with respect to the relationship between the West or Southwest and Official Territory, have you?

A. No, sir.

Mr. Grubbs: I have just one or two additional questions, Mr. Kennedy.

The Witness: Yes, sir.

By Mr. Grubbs:

Q. In all of your exhibits, Mr. Kennedy, you have used all of Official Territory in comparison with Southern Territory, have you not, except where you have been restating a computation that was made by Dr. Edwards or Mr. Saunders?

A. Yes, sir.

Q. And except also as to your own exhibit, where you undertook to reveal the revenue effect of a transfer of the Official Territory level of rates and divisions to the South?

A. Yes, sir, that is correct.

Q. Well now, I would just like to have the record be clear, Mr. Kennedy, as to why in that one instance you made a comparison of Southern Territory with the Eastern District, that is, excluding the Pocahontas lines.

A. The reason why that was done was because the showing there made depended, to a great extent, on the [fol. 4090] average hauls per road that were compiled in the Federal Coordinator's Freight Traffic Report. Those

hauls per road were set up there for the Eastern District, and separately for the Pocahontas Region. There is no average haul per road shown in that report that includes the Eastern District—or rather, the Pocahontas Region with the Eastern District, so that I felt at the time that I could not get the correct average hauls from that report that would be applicable to the Eastern District, including the Pocahontas Region.

Q. And it was only for that reason that you did not show the whole of Official Territory in that instance; is that correct?

A. Yes, sir.

Mr. Grubbs: That is all.

Chairman Aitchison: Do you wish to offer the exhibits?

Mr. Grubbs: Yes, if your Honor please, at this time I offer in evidence Exhibits 181 and 182.

Chairman Aitchison: Without objection, they are received.

(Exhibits 181 and 182, Witness Kennedy, received in evidence.)

Chairman Aitchison: Cross-examine.

Mr. Norman: If the Commission please, my questions will be more in the nature of obtaining information, than strictly speaking, cross-examination.

[fol. 4091] Cross-examination.

By Mr. Norman:

Q. Mr. Kennedy, I understand that on sheet 3 of Identification No. 5 of your Exhibit No. 181, where you show, at the bottom of the sheet, that for the ten year period the ratio of the Southern Region per ton mile results to the Eastern District, excluding the Pocahontas Region, was 1.009, you are there using the traffic which was actually handled by the Southern Region,—or by the carriers in the Southern Region; is that correct?

A. Yes.

Q. And then in Identification No. 8, where you show the ratio of the Southern Region to the Eastern District of 1.094, you are applying the Southern Region cost to the Eastern District traffic; is that right?

A. Well, you are speaking there, of course, Mr. Norman, about two different things. Identification No. 8 includes

the Pocahontas Region. The similar sheet in the exhibit to that, is sheet 4 of Identification No. 5, where comparison is made with the Eastern District.

Q. Well, on both sheet 4 of Identification No. 5, and also in Identification No. 8, you are there using the Eastern traffic, to which are applied the Southern expenses; is that correct?

A. Would you state that again, please.

Mr. Grubbs: Will you read the question, please, Mr. [fol. 4092] Reporter.

(Question read.)

A. No, sir.

By Mr. Norman:

Q. What has been done there, then?

A. What has been done there, Mr. Norman, is to apply the Edwards' formula in accordance with his separation of cost for the ten year period. The comparison is made up on the basis of the Southern Region cost and the Southern Region distribution of traffic.

Q. Well, that is true with respect to the first sheet that I have asked you about, which is sheet 3 of Identification No. 5; but, now, when we come to this sheet 4, is that a ten year period also?

A. Yes.

Q. And in that, you have—or rather, what have you done there? Will you state that again, please?

A. On sheet 4 the costs are stated on the basis of the Southern Region traffic, and its composition, and that is compared with what the Southern Region would be at the Eastern District costs.

Q. Eastern District costs?

A. Yes, sir, for the Southern Region composition of traffic.

Q. I see.

A. I therefore have two costs.

Q. Yes.

[fol. 4093] A. One of which is based on the Eastern District composition.

Q. Yes.

A. And the other, on the Eastern District applied to the Southern.

Q. Oh, I see. I had it just backward. You are employing the composition——

A. Eastern.

Q. —the Eastern composition——

A. Yes.

Q. To the Southern cost.

A. Yes.

By Chairman Aitchison:

Q. Well, which one of those do you contend is the one that most fairly and closely reflects the true condition?

Mr. Grubbs: Pardon me, your Honor. May we understand what your Honor means there by the true condition?

Chairman Aitchison: Costs.

Mr. Norman: The true costs.

A. Our contention, Mr. Chairman, is this, that it is impossible to make this territorial comparison from a breakdown costs, but that the only factors which are sufficiently reliable to give a correct index are the rate of return considered in connection with whatever the difference in rate level may be.

[fol. 4094] By Chairman Aitchison:

Q. Well, you are not very helpful, when you consider that the Supreme Court of the United States, in the proceeding brought by one of these same respondents, the Chesapeake and Ohio, the Conley case, said that no matter what the difficulties were, the separation of costs had to be made in determining whether the rates were confiscatory or otherwise. Now if the Chesapeake and Ohio was able to demonstrate that, in that case, why can you not give us some similar information here?

Mr. Grubbs: You will recall, if your Honor please, the reservation that Mr. Kennedy just made, as to the figures being percentage figures. We do not concede that these costs that have been developed are a reliable comparison, or comprise a reliable showing of relative costs.

Chairman Aitchison: Well, then, why do you not give us a reliable showing?

Mr. Grubbs: Our view is, you Honor, that it is impossible to develop that.

Chairman Aitchison: In the Conley case, that is what you succeeded in persuading the Supreme Court of the United States must be done, and also in the North Dakota Lignite case.

Mr. Grubbs: Our view is, if your Honor please, that when you take the whole of the territory, considering all of the traffic that moves, and all of the different ways in [fol. 4095] which it is handled, it is just simply impossible to compare the resultant costs, because you do not have like with like; you do not get the result in like figures.

Chairman Aitchison: Continue.

By Mr. Norman:

Q. Well now, Mr. Kennedy, on sheet 3 of Identification No. 5, you have there, for both regions, included all of the expenses, including taxes and a return of 5.75 per cent, and you have arrived at a cost per revenue ton mile for each of the regions, and you show that for the ten year period it was almost exactly the same; that is true, is it not?

A. Those are the recorded results, as reflected by the record, and are for different lengths of haul. For example, it will be observed from the column headed "Total, 10 years" on sheet 2, and on sheet 3—or rather—just a moment. Let me answer this way: Those are the results as recorded in the record, and they are for different lengths of haul in the Southern Region and in the Eastern District. For example, for the 10 year period, the average haul in the Eastern District, excluding the Pocahontas Region, was 158 miles, and in the Southern Region, 198.8 miles. There is no adjustment made there for the effect of the difference in length of haul.

Q. Well, but whatever the difference in the length of haul may be, when you include all of the expenses, why, [fol. 4096] you get practically the same answer in both cases, even though they are for different lengths of haul—or even though there be a difference in haul, do you not?

A. Well, the difference in haul, Mr. Norman, if both roads, both groups of roads were placed on the same basis, would change those figures, or would change that comparative result.

Q. I know, but these are comparative results, based on the hauls as they are, are they not?

A. Yes.

Q. Well, then, why do you want to change them from what they are?

A. Well, personally, of course, I do not want to change them. I want to make a comparison on the basis of the rate of return, which includes the expenses as they are, and which also includes the effect of the revenues as they are. Now the question of the possible adjustment that ought to be made for difference in haul is to an extent at least washed out, when you consider both the expenses and the revenues, so that the rate of return reflects what the true status is. Coupled with that, however, you must consider whether or not there is any difference in the relative rate level. Now, Dr. Edwards has attempted to make the adjustment that would be necessary to bring the comparison on the basis of the same average haul.

[fol. 4097] Q. But taking the lengths of the hauls as they are, and taking the costs as they are, you arrive at approximately the same cost for both territories, do you not?

A. Yes, but——

Q. And that includes a return of 5.75 per cent, does it not?

Mr. Grubbs: Pardon me, Mr. Norman, but I am afraid, I believe you interrupted the witness. He said "Yes, but"—and then you put another question.

Mr. Norman: I am sorry.

A. I was going to say, we arrive at the same cost, naturally, but you will observe for the 10 years that the rate of return for the Southern Region was 1.91 per cent, and for the Eastern District was 2.12 per cent.

By Chairman Aitchison:

Q. Well it all gets back to what your base is, on which you are figuring your rate of return, does it not?

A. Why, that affects it, yes, Mr. Chairman, but of course, if you adopt a different property value for investment in road and equipment, you adopt it in both territories.

Q. Well, investment in road and equipment is simply book value, or book cost, is it not?

A. Yes, sir, that is correct. Incidentally, however, I have given you a comparison in Part No. 7 of investment in road and equipment in what the Bureau of Valuation computes to be the original cost.

[fol. 4098] Q. You have taken into account nothing for depreciation, have you.

A. No.

By Com. Splawn:

Q. You have not undertaken to show anything for depreciation?

A. No, sir.

By Chairman Aitchison:

Q. The property is entirely undepreciated?

A. Yes, sir.

Mr. Norman: That is all I have.

Chairman Aitchison: Is there any further cross-examination of Mr. Kennedy?

Mr. Eshelman: Just one question, please.

By Mr. Eshelman:

Q. Mr. Kennedy, in one of your answers to one of Mr. Norman's questions, I think that you quoted some average hauls. Were they average hauls per railroad?

A. Yes, per road.

Mr. Eshelman: Thank you.

Chairman Aitchison: Is there further cross-examination?

Mr. Smelker: Yes.

Chairman Aitchison: Mr. Smelker.

By Mr. Smelker:

Q. Mr. Kennedy, will you please refer to sheet 4 of Identification No. 5, of your Exhibit No. 181.

A. Yes, sir.

[fol. 4099] Q. Have you not departed substantially from the formula which was used by Dr. Edwards, in the including of constant expenses with terminal expenses?

A. Well, Dr. Edwards sets up a certain percentage of the expenses as being constant. It is true that in constructing his cost scales, he divides that in some manner—I think it is based on the out-of-pocket separation of the total hourly expenses—as between a terminal proportion and a linehaul proportion; or, to state it another way, a proportion that

he says is to be divided on a basis of tons, and a proportion that he says is to be divided on a basis of ton miles.

Q. Well now, you are coming there to the next question that I wanted to ask you.

A. Pardon me.

Q. In other words, why did you——

Chairman Aitchison: Well, let the witness answer the first question that you asked. I do not know whether you meant to answer that question yes or no. You have given a little explanation here——

A. I had not completed it.

Q. —but you have not answered the question.

A. I have not completed my explanation.

Mr. Smelker: I did not intend to interrupt the witness, your Honor.

[fol. 4100] By Chairman Aitchison:

Q. Suppose you tell me yes or no first, and then you may make your explanation.

A. Well, that question cannot be answered categorically by a yes-or-no answer, Mr. Chairman, because the position that I take is this: Dr. Edwards has set out certain expenses, and he has designated them as constant expenses. Now, if those expenses are constant expenses, they cannot be constant and variable at the same time; so that in this exhibit I have treated them as constant.

Q. Well now, you either have or you have not followed a formula. Which is true?

A. I have not.

Chairman Aitchison: All right.

By Mr. Smelker:

Q. Well then, let me ask you this question, Mr. Kennedy: Why did you depart from the formula, in making your showing here?

A. Dr. Edwards has set up, as I stated, a certain proportion of the expenses, which he states are constant. He states that they are constant, and apply alike to each ton. His statement in that regard, taken from Exhibit No. 12, chapter 1, page 1, is this: "In so far as the constant expenses are concerned, any ton is treated as no different from

any other ton." To that extent I have followed Dr. Edwards' plan.

Q. Well, but is it not true that Dr. Edwards' cost study separated the terminal and the linehaul, in so far as constant [fol. 4101] costs are concerned?

A. He did that, yes.

Q. And directly so.

A. He did that, yes, sir, for the purpose of constructing his cost scales; but here I am dealing with a territorial comparison.

Q. Why did you put all the linehaul content in the terminal?

A. For the very reason that if a certain body of expenses are constant, they cannot be variable, so that, if they are constant, they are subject to no change whatever by reason of any change in volume, or in haul, or any other change. They apply alike to each ton.

Q. Now will you please refer to line 24, and also line 25 on the same page, under the column Eastern District.

A. Yes.

Q. And will you explain in detail, please, how you arrive at the figure of .5024, and also the figure of .4076?

A. Yes, sir. That is based on Products of Mines only. It does not include gondola and hopper cars to the same extent that Dr. Edwards assigns traffic to gondola and hopper cars.

Q. Now you did not use the same separation in Identification No. 5, as you did in Identification No. 3, did you?

A. Yes.

Q. Did you not——

[fol. 4102] Mr. J. R. Bell: Just a moment, please. Did I correctly understand you to say, Identification No. 3?

Mr. Smelker: Yes.

The Witness: Identification No. 3 is in Exhibit No. 18, the one which was filed at the previous hearing in this matter, at Indianapolis.

By Mr. Smelker:

Q. Now will you please refer to line 10, under column 4, the figure 158.

Q. Should you not have used the average haul per shipment rather than the average haul per road, in line with the formula of Dr. Edwards?

A. Well now, I will answer that question in this way, that if the average haul per shipment were available, which it is not, at the present time, I would be willing to use it.

Q. Is it not available through the work sheets, Mr. Kennedy, that were used in connection with Identification No. 3, in compiling that Identification?

A. No, sir.

Q. Of Exhibit 18?

A. No, sir, it is not. I do not consider the figure that would be developed there as being correct for the average haul.

Mr. Grubbs: A little louder, please.

Chairman Aitchison: Read that last answer.

[fol. 4103] (Answer read.)

By Mr. Smelker:

Q. Now, Mr. Kennedy, will you please refer to line 7, under columns 2 and 3.

A. Yes, sir.

Q. The percentage which you show under column 2, is 53.15 per cent, and under column 3, it is 46.85 per cent.

A. Yes.

Q. Now, if you had used the separation of Dr. Edwards, the percentage under column 2 would have been 24.47 per cent, and under column 3, it would have been 75.53 per cent; that is correct, is it not?

A. That is right—that is, if, as Dr. Edwards states, the linehaul proportion of the constant expenses were thrown into the linehaul column, that would be approximately correct, yes, sir.

Q. Now will you refer, please, Mr. Kennedy, to the statement on page 6.

A. Yes.

Q. Down at the bottom of the page, around the 5th or 6th line from the bottom, you have superimposed the constant costs of the South, of $123,000,000 plus, upon the Eastern railway plant, although the Eastern system is a very much greater system.

A. Yes.

Q. Did the Bureau study in any way indicate that you [fol. 4104] should take the constant expenses of one region

and apply them as correct in another region, especially a larger region?

A. No.

Q. All right. Now, will you turn next, please, to sheet 13 of the same statement, where, after discussing the tonnage of coal carried by the Louisville & Nashville Railroad, and the Clinchfield, you say, "There appears no more justification for excluding the Pocahontas lines from the Eastern District than there would be for excluding the Louisville & Nashville Railroad and the Clinchfield Railroad from the Southern Region, because of the handling of a preponderance of Products of Mines."

A. Yes.

Q. Does not the coal tonnage for the East, excluding the Pocahontas lines, exceed that for the South, including the Louisville & Nashville and the Clinchfield?

A. On a tonnage basis, yes, sir.

Mr. Smelker: That is all.

Chairman Aitchison: Are there any further questions of the witness?

Mr. Grubbs: If that is all of the cross-examination, your Honor, I have just one or two further questions on redirect.

Redirect examination.

By Mr. Grubbs:

Q. Mr. Kennedy, is the relative showing between Southern [fol. 4105] and Official Territories, in their rates of return, affected in any material way by whether you use book investment figures, or the figures used by Dr. Edwards?

A. In the earlier years, starting with 1920, and on up into 1929, or perhaps a little bit later, there is quite a difference.

Q. I am talking now, Mr. Kennedy, about the figures that are used either in your exhibit, or that are used in Dr. Edwards' exhibit.

A. We are talking about the same thing.

Q. All right.

A. I am talking about the comparison of investment in road and equipment, as against the Commission's computed value. In the earlier years, there was a difference, but as time went on, however, and as we get down to 1939, that

difference has gradually disappeared, so that in 1939 there is very little difference. I do not know, however, what the composite effect is, over the 10 year period.

Mr. J. R. Bell: May I interrupt for a question right there?

Mr. Grubbs: Certainly.

By Mr. J. R. Bell:

Q. As I understand it, the difference between the figures, between the two sets of figures, that you are talking about, was decidedly greater in the previous years, the earlier [fol 4106] years, and then they got closer together later on; is that correct?

A. I might explain here that when the statement was made in connection with the comparison between the East and the South, that is what I had in mind. The figures that I refer to are investment in road and equipment figures, and property used in transportation service, including cash, material and supplies on the one hand, as compared with the Commission's value for ratemaking purposes on the other hand. My statement, however, is correct, in the light of the comparison between the East and the South.

Q. I understand that, Mr. Kennedy, but I understood you to say that the value for ratemaking purposes in the earlier years was substantially higher, in your opinion, and now is about the same; is that correct?

A. Oh, no. It has always been lower. My statement is that there would be a difference in the comparison between the East and South, no matter which one of these figures you might use, in the earlier years; but that difference has tended to disappear, so that in 1939 it does not affect the relative situation to any great extent, at least.

By Mr. Grubbs:

Q. Mr. Kennedy, Is it not a fact that in the Interterritorial Divisions Case, the Commission found that the condition, the relative condition was not affected by whether you used the valuation figures of the Commission, or the book investment figures.

[fol. 4107] A. Yes.

Chairman Aitchison: Well, in the Interterritorial Divisions Case, you did not have any trouble, did you, in presenting relative cost studies as between these territories?

Mr. Grubbs: We took exactly the same position that we are taking here, if your Honor please, exactly the same.

Chairman Aitchison: Were there not cost studies presented——

Mr. Grubbs: By the Eastern lines, but we did just exactly as we have done here.

Mr. Eshelman: We used the Southern lines separation, however, and not one of our own.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Continue.

Mr. Norman: Is it not a fact that in the Divisions Case, the Eastern lines took the position that the cost in the South was no higher than it was in the East, and undertook to prove it?

Mr. Grubbs: And failed ignominiously.

Chairman Aitchison: Is there anything further from this witness?

Mr. Smelker: I have just a further question or two, if the Commission please.

Recross examination.

[fol. 4108] By Mr. Smelker:

Q. Mr. Kennedy, will you please refer to revised sheet 4, Identification No. 2, of your Exhibit No. 180, as shown by new Identification No. 8, of your Exhibit No. 181.

A. Yes, sir.

Q. Going to line 27, in the last column, and referring to the figure of $69,442,260, Southern Region Cost: Did not Dr. Edwards supply you with figures showing that that amount is in error?

A. Yes.

Q. And that the correct figure should be $61,795,538.

A. Yes, sir, that is correct. I have recomputed that here, in my own work sheets, and I find that it changes the ratio in line 34, to .92, and that it changes the ratio in line 37, which is the ratio of the Southern Region to the Eastern District, to 1.082, instead of 1.094.

Mr. Smelker: I believe that is all.

Mr. Grubbs: If the Commission please, before Mr. Kennedy is finally released from the witness stand, I would like to make a request—and it may be off the record, unless the Chairman thinks it should be on the record—and that request is this: We should like to have the privilege of presenting Mr. Kennedy at the Washington hearing in this proceeding, to show our side of any changes that may be made, or anything that may be presented at that time, by [fol. 4109] Dr. Edwards. Specifically, what I have in mind is this: Dr. Edwards has prepared certain additional testimony, that was to have been presented at this hearing, as I understand it, and in that testimony, and in exhibits, that he was to have presented here, he has undertaken to restate the revenue result showing that Mr. Kennedy has made. Now Mr. Kennedy feels that in that restatement, some rather serious errors have been made. He has talked at some length with both Dr. Edwards and Mr. Parr about the matter and they are going to discuss the matter a little bit further after Mr. Kennedy leaves. In view of that, I simply would like to have the reservation made, upon the record, that, if Dr. Edwards is unable to agree with Mr. Kennedy that the corrections which Mr. Kennedy thinks should be made, ought to be made, then Mr. Kennedy be permitted to return to the witness stand and show the effect of those mistakes, or those errors, as he considers them to be. Now, as I also said the other day, when we were discussing this same matter—although the discussion at that time was off the record, if I recall correctly—it may be, and it probably will be that when this new movement study comes out, Dr. Edwards will at that time desire to revise these tables that he was going to have presented at this time, but which he is going to present at Washington; and in that event, of course, we would also like to have the privilege of laying [fol. 4110] beside what may be submitted by Dr. Edwards, Mr. Kennedy's showing of how he thinks these results should be set up, and how they would be changed by the mistakes or errors that he believes now to exist in them, as presented by Dr. Edwards.

Chairman Aitchison: We understand, do we, that further efforts will be made to harmonize these possible differences?

Mr. Grubbs: Yes.

Chairman Aitchison: That is being done right now, as I understand it; is that correct?

Mr. Grubbs: That is right, yes, your Honor. We desire to do that, if possible; and I merely wanted to make the reservation so that it could not be said that, if it does develop that we shall want to put Mr. Kennedy on the stand again, if he and Dr. Edwards are unable to harmonize these differences, there was no previous arrangement made for it. That is all I have in mind.

Chairman Aitchison: You will get every opportunity to develop all of the facts that are necessary in this case.

Mr. Grubbs: Thank you. The only reason that I am raising the point at this time, I may add, if the Commission please, is that when I raised it the other day, you said that we would hear Dr. Edwards in Washington, but I do not recall anything being said about hearing Mr. Kennedy.

Chairman Aitchison: If there are no further questions [fol. 4111] you are excused, Mr. Kennedy.

The Witness: Thank you.

(Witness excused.)

Chairman Aitchison: Mr. Dixon.

Mr. Dixon: Recall Mr. Tassin.

J. S. Tassin recalled:

Direct examination.

By Mr. Dixon:

Q. Please state your full name.

A. J. S. Tassin.

Q. Are you the same Mr. J. S. Tassin who was previously sworn and testified in this case?

A. Yes.

Q. Did you attend the hearing in this proceeding, the original hearing, at St. Louis, Missouri?

A. Yes, sir.

Q. Did you at that time hear the testimony of Dr. Edwards?

A. Yes, sir.

Q. Have you examined Exhibits Nos. 2, 3 and 4, which were introduced by Dr. Edwards at that time?

A. Yes, sir.

Q. And have you also examined the work sheets underlying those exhibits?

A. Yes.

Q. Did you also attend the hearing at Indianapolis in this [fol. 4112] proceeding?

A. Yes, sir.

Q. Have you examined Exhibits 10 to 14, both inclusive, which were introduced by Dr. Edwards on that occasion?

A. Yes, sir.

Chairman Aitchison: Did you say, 10 to 14?

Mr. Dixon: Yes.

Chairman Aitchison: 10 to 13, were they not?

Mr. Dixon: Should that be 10 to 13?

Chairman Aitchison: I believe so.

The Witness: Dr. Edwards will correct me if I am wrong. Those were Exhibits 10 to 13, were they?

Dr. Edwards: Yes.

Mr. Dixon: Very well.

The Witness: Exhibit 10 covered the interterritorial interest.

Chairman Aitchison: The what?

The Witness: The interterritorial interest of the railroads.

Mr. Dixon: Those were Exhibits 10 to 13, then, were they, Dr. Edwards?

Dr. Edwards: Yes.

Mr. Dixon: Very well.

The Witness: I will accept that correction.

By Mr. Dixon:

Q. Mr. Tassin, as a result of what you heard, and subse- [fol. 4113] quently examined in greater detail, are the differences between Dr. Edwards and yourself in cost-finding procedure, fundamental and far reaching?

A. In what respect?

Q. First, with respect to the failure on the part of Dr. Edwards to segregate actual testimony from opinion testimony, and more particularly his equated distribution of deficits and overheads. Why have you ignored, so to speak, questions of application in detail?

A. Because I think that we must of necessity clarify our basic concepts, and establish our basic principles, first.

Q. Will you please illustrate, Mr. Tassin, what you have in mind, in making that answer.

A. As a shipper of carload freight, I accept the verdict of the track scale. As a shipper of less than carload freight,

I accept the verdict of the platform scale. As a purchaser of groceries, I accept the verdict of the counter scale, but when I have a prescription to be filled, then I must demand the accuracy of the apothecary's scale.

Q. But the basic principle obtained throughout; is that the idea?

A. Yes, sir.

Q. And it is in this field where you and Dr. Edwards are at odds; is that correct?

A. Yes, sir.

[fol. 4114] Q. What is the most fundamental and far reaching difference between you?

A. I believe I have mentioned that already: His failure to segregate factual from opinion testimony, and more particularly, his equated distribution of deficits and overheads.

Q. What is his basic concept there?

A. It has a two-fold aspect. In the first place, he, instead of charging the general transportation burden to the traffic that is best able to bear it, he reverses that principle, and he charges it to the most expensive traffic, that is, the traffic that is the most expensive to handle. Now that involves itself in, or evolves itself into, a vicious circle, which I believe I can illustrate in a very simple way. He first establishes cost at the level of expenses, rents and taxes, and then, because the Commission's segregation shows that there is a passenger deficit, he puts that upon freight, which will immediately make certain classes of freight pass on that deficit to still other freight; and carrying that process to its logical conclusion, we get right back where we started, because the majority of the roads fail to earn their capital carrying cost, and there is not any freight that ultimately bears this pyramiding of deficits. In other words, we have got a deficit to start out with, on all traffic.

[fol. 4115] Q. Are you referring now to the several levels at which Dr. Edwards has computed costs?

A. Yes, sir, none of which I can accept.

Q. Why is that basically unsound?

A. Because the transportation burden is in fact met by the volume of revenues produced by the margin in the cost, and not by the margin between cost and rate.

Q. In what way?

A. A low margin may stimulate a large volume of traffic, and that is what pays the transportation burden.

Q. An injudicious margin, by restricting rather than stimulating traffic, might add to rather than help there the general transportation burden; is that what you have in mind?

A. Yes, sir, that is just exactly what I have in mind.

Q. What is your own method, in this important respect?

A. My own method is, first, to determine the nature and extent of the revenue need. That is as far as we have to go in any case, except where minimum rates are concerned; and that is as far as I have gone in this case, and I feel that is all that is necessary to meet the requirements of this case, since minimum rates are not involved here.

Q. Do you have a simple and readily available method to follow?

Chairman Aitchison: Just a moment. I wonder why the [fol. 4116] witness thinks minimum rates are not involved here?

The Witness: Well, I will admit, Mr. Commissioner, that it is pretty difficult for any of us to decide as to just exactly what is and what is not involved in this case,—that is, judging from the testimony that I have heard. But that has been my understanding, and, although again I may be wrong, I did not think that minimum rates were involved in this case and that is why I did not furnish particular costs.

Chairman Aitchison: Continue.

By Mr. Dixon:

Q. Mr. Tassin, do you have a simple and readily available method to follow?

A. Yes.

Q. What is that?

A. To operating revenues I add the income derived from rents receivable, and that gives me gross operating income. To operating expenses I add taxes and rents payable, and that gives me the gross operating outgo. To the last figure I add the amount required to meet capital carrying costs and that gives me the gross revenue need. By dividing the gross operating income into gross revenue need, where the ratio is greater than 100, the excess over 100 is the percentage by which gross must be raised in order to provide a living wage for the railroads.

Q. Do you do that for each individual line?

[fol. 4117] A. Yes.

Q. Can you explain that a little more fully?

A. As to why?
Q. Yes.
A. Is that your question?
Q. Yes.

Chairman Aitchison: No. The question was "Can you explain that?"

Mr. Dixon: My question is, if the Commission please: Will you explain that a little more fully.

A. Oh, a little more fully?

By Mr. Dixon:

Q. Yes.

A. Well, I do not accept the basic concept that we have got one big railroad in the North and another railroad about half its size in the South. We have got a number of individual railroads, both in the North and in the South, each of which is equally entitled to life, liberty and the pursuit of profits; and the different railroads, with their different requirements, must be put together for comparative purposes.

Chairman Aitchison: That is sometimes referred to, I believe, as life, liberty and the pursuit of shippers. (Laughter.)

The Witness: We get our profits out of our friends, Mr. Chairman, and that is why we try to make friends of all [fol. 4118] of our shippers.

By Mr. Dixon:

Q. Is that the only difference between Dr. Edwards and yourself in this respect?

A. No, sir, it is not. I have already intimated a second major difference; and there is a third also. The second one, as I have stated, is this basic concept that we can statistically consolidate the railroads. You can put them into groups, and properly weight them statistically, but you cannot consolidate them. Another major difference between us is that in determining the elements of revenue need, or the general transportation burden, one year does not suffice, but we must have a showing over the requisite period of years, good and bad alike.

Q. How do you determine that relationship in the case of revenue need?

A. Well, I use the proper statistical method of weighting. In the case of—well, for instance, in Ex Parte 148, I would have arrived at a weighted average on the basis of greatest common experience, and not by aggregating the roads in the various territories.

Chairman Aitchison: What was that last answer?

(Answer read.)

By Mr. Dixon:

Q. Why do you use investment in railway property used in transportation service——

A. For several reasons.

[fol. 4119] Mr. Dixon: Just a moment, please, until I complete the question.

The Witness: I am sorry.

By Mr. Dixon:

Q. —plus cash, materials and supplies, and an annual return of 5.75 per cent thereon, as constituting an amount of net railway operating income proper for the railroad to aspire to as a minimum living wage under normal conditions.

A. As I say, for several reasons; both with respect to investment in railway property used in transportation service, and the return computed at 5.75 per cent.

Chairman Aitchison: I would like to ask you, Mr. Dixon, whose testimony is being rebutted here.

Mr. Dixon: Pardon me, your Honor?

Chairman Aitchison: Who is being rebutted here, now—whose testimony?

Mr. Dixon: The testimony of Dr. Edwards and Mr. Saunders.

Chairman Aitchison: Well, those witnesses put their testimony in before Mr. Tassin testified before, did they not?

Mr. Dixon: Well, unfortunately, if your Honor please, I did not attend the previous hearings in this proceeding, and therefore I would not be able to answer your question.

Chairman Aitchison: The Commission put its testimony [fol. 4120] in first.

Mr. Gwathmey: As I recall it, Mr. Chairman, Dr. Edwards put in some additional testimony at the hearing at Indianapolis.

Chairman Aitchison: Dr. Edwards put in a recalculation at the Indianapolis hearing.

Mr. Gwathmey: Yes.

Chairman Aitchison: It seems to me that we are just running into a rehash here, with respect to rate of return, and all that sort of thing. Mr. Tassin has already had an opportunity to express himself, and he has done so.

Mr. Gwathmey: Mr. Dixon was not at the Indianapolis hearing. It is my understanding, if the Commission please, that Dr. Edwards, in the additional data which he put in at the hearing at Indianapolis varies in certain important respects from what he put in at the St. Louis hearing. His presentation at Indianapolis includes considerable additional matter; among other things, the use of a 4 per cent rate of return.

The Witness: Also, Mr. Saunders testified at Indianapolis.

Mr. Gwathmey: And Mr. Saunders testified at Indianapolis, basing his testimony, supposedly at least, upon what had been put in by Dr. Edwards. Now it has been our understanding, sir, that we would be privileged to rebut the [fol. 4121] testimony of those gentlemen at this hearing. That was stated at Indianapolis.

Chairman Aitchison: All right, but it appears to me that you have already had that opportunity. If you have not had it at Indianapolis, you will have it now, but Mr. Tassin certainly argued that question at very great length, about the rate of return, and his theory, and so forth. He had some 30 odd exhibits, if I recall it correctly.

Mr. Dixon: May I proceed, then, your Honor?

The Witness: Let me answer that, please. I am saying nothing here, Mr. Commissioner, that I said at Indianapolis. This is in addition, brought about by the further developments, the use of the 4 per cent; and by the testimony of Mr. Saunders.

Chairman Aitchison: All right.

By Mr. Dixon:

Q. I do not believe you finished your answer to my last question—did you, Mr. Tassin?

A. No.

Q. Will you proceed.

A. I have not had a chance as yet to answer it at all,—with reference to why I myself have used Schedule 211-N of our annual reports to the Interstate Commerce Commission, instead of the figures used by Dr. Edwards and Mr. Saunders. My answer to that is that there are several reasons. First, with respect to our own roads, I know, as an actual fact [fol. 4122] that the sum total of the figures that we report to the Interstate Commerce Commission in that Schedule, is less, and not more, than the amount of investment that either prudently went into the property, or would presently be required to produce these properties. I presented claims in great detail in our valuation proceedings, requesting the Commission to adjust into, as well as out of, our Investment Account. The Commission, for the sake of uniformity of practice, adjusted out, thereby understating our Investment Account, but would not even check the claims that I presented for adjustment into the account of a great volume of earnings that had been plowed back into our properties, which, under the existing classification, should be included in the Investment Account, and excluded from earnings, thereby both raising our Investment Account and our net earnings over the period prior to the valuation date.

Q. Have you completed your answer?

A. No, sir. Just a moment further, please. That is only one of the reasons. I know that the figure is conservative, from our point of view. I know also, by actual study, as my exhibits will show, that the return computed at 5.75 per cent, is conservative. Another reason why I use that basis is because it is the only basis, under the policing power of the Commission, that has been available to us for a considerable period back. The third reason why [fol. 4123] I use that basis is because it has commonly been used by Dr. Parmelee in all of his statistics from 1921 on. He bases his rate of return earned by the railroads, on the amount of their investment in property used in transportation service, plus cash, materials and supplies. Again, the last and final reason is that this cost basis, or accounting basis, can very readily continue to be used, even if the Commission should find that the cost of transportation—or rather, I mean to say, the value of the transportation service, is less than its cost, as Dr. Edwards and Mr.

Saunders have found. That would merely have the effect of lowering the rate of return on the investment basis.

Q. Have you now, Mr. Tassin, fully completed your answer to my last question?

A. Yes, sir.

Q. In short, then, you have determined by actual investigation, that this is a convenient and conservative measure for determining capital carrying cost in rate cases; is that it?

A. That is the idea, yes, sir.

Q. Do you consider that a finding of value?

A. No, sir.

Q. Do you consider prudent investment a cost or a value basis?

A. It might be either, of course. I use it as a cost basis. [fol. 4124] Our investment is less than prudent investment; that is, it is prudent investment, conservatively stated. Our investment is our first line of defense.

Q. You do not, then, undertake to furnish the Commission with a preconceived judgment as to value?

A. No, sir, I do not. I am not what you would call a single-sum man, anyhow. I would rather have three or four reasonable bases of valuation offered, to permit of an informed judgment as to value with respect to the railroads.

Chairman Aitchison: I might say, I agree with you, but 25 years ago the Commission held otherwise.

The Witness: At that time, Mr. Chairman, we were confronted with the proposition of recapture, which has now been removed from the picture.

Chairman Aitchison: No, at that time, we were not confronted with the proposition of recapture.

The Witness: Well, subsequently, I mean; but now that the matter of recapture is entirely out of the picture, I prefer a reasonable judgment to a compromise single sum.

By Mr. Dixon:

Q. The first step in your procedure, then, as you have described it, is to determine, road by road and as properly related in groups, over a period of years, the fact and extent of revenue need.

A. Yes.

Q. What is your second step?

[fol. 4125] A. My second step, in those cases where it is required, is to segregate the direct costs, which fall under two heads: Joint facility costs, where we have a record of the local costs; and other than joint facility costs. Then I subdivide those into four basic services, namely, car service, road service, switching service, and terminal service, working out a logical statistical value for each one. Then in those cases where I have to cost a particular traffic in order to determine whether or not a specific rate has any margin in it at all, I cost the movement of the traffic on those bases, having thrown entirely to one side the element of general transportation burden, in which I include the cost of non-revenue service.

Q. What are those elements of indirect costs or overheads?

A. The elements are: General expenses, traffic expenses, taxes, and finally, capital carrying cost, and, as I have said, the cost of non-revenue services, after I have computed them on the basis of statistical unit values for direct costs.

Q. What is this cost of unused capacity?

A. This cost of unused capacity is a substitute that I am offering for Dr. Edwards' so-called out-of-pocket costs.

Mr. Dixon: Will you read the question to the witness, please, Mr. Reporter.

(Question read.)

[fol. 4126] The Witness: I have not completed my answer.

By Mr. Dixon:

Q. Pardon me. Proceed.

A. It is my attempt to set the cellar floor under the costs, and provide a figure that would be—or that might be used to determine the minimum below which rates should not logically go. I have since reached the conclusion that possibly a better and more logical way to reach that sort of result would be to determine the cost of unused capacity, and segregate that as an element of general overhead. I am proposing to develop along both lines, I am opening up the field, because I cannot accept Dr. Edwards' discounting of cost under the guise of "out-of-pocket." You cannot determine out-of-pocket cost upon a percentage

basis, because your volume is constantly moving in both directions, and you never get a divisor that has not got volume in it, and you never get a percentage that does not to some extent reflect volume; and if you are measuring along the line of a down-trend in the traffic, you get one result, and if you are measuring along the line of an up-trend in the volume, you get another result. For example, measuring the Southern Railway against 1932, the all-time low, 1926, the previous high, was 75 per cent above, and 1941, the present high, slightly higher than 1926, is only 45 per cent above.

Q. Dr. Edwards' out-of-pocket per cents fit no conditions, other than those that produced them; is that your point?

[fol. 4127] A. That is my point exactly, yes, sir. Now you cannot, by the use of any statistical measure, set up a line of per cents to measure out-of-pocket cost that can be applied to subsequent years at random. They fit only the occasion which developed those particular per cents, in the first place.

Q. How would you go about computing the cost of unused capacity?

A. In computing the cost of unused capacity, your entire movement of empty cars is unused capacity; the excess of your tractive effort of the locomotive over the load that is actually carried, is unused capacity; and the capacity of your road to carry more trains than are being run, is unused capacity. I would gather together, then, all of those items, and apply the property statistical measures to them, and segregate that as overhead.

By Chairman Aitchison:

Q. Would you give any credit to unused capacity because the road was not used to capacity anywhere along the line?

A. I did not give it any credit, no, sir, but at the same time I think that the facts ought to be set forth where we can all see them.

Q. Or because, for instance, the wear and tear on a car that is loaded is not as great as it is on a car that is not loaded?

[fol. 4128] A. I did not get that.

(Question read.)

A. My answer would be the same.

Q. I had always understood that energy is the product of mass times the square of velocity, and mass includes the load that is in the car as well as the weight of the car itself.

A. Well, I am not a formula man, Mr. Chairman. All I can say — that a house that is lived in does not depreciate as much as a house that is empty.

Q. Do you know whether or not that is the basic factor, or the basic formula on which the whole theory of American engineering is predicated?

A. I have a very great deal of respect for engineers, both mechanical and civil engineers, Mr. Chairman, when they bridge streams and tunnel under mountains, and so forth, and so on; but when they get into matters of formula —well, I am very sorry.

Q. Then you would not accept the formula that E equals V-squared times M?

A. I do not accept any formula, sir. I am a comparative statistician.

By Com. Splawn:

Q. Well then, how are you getting this apothecarial exactness to which you referred a while ago, in your computations?

[fol. 4129] A. By weights and measures, Mr. Commissioner, adjusting each to arrive at a common level.

By Chairman Aitchison:

Q. Did I correctly understand you to say just now that you do not accept any formula?

A. I am not a formula man, Mr. Chairman; positively not.

Q. Well then, why do you, on sheet 4—I believe it is sheet 4—just a moment. This exhibit is not paged, apparently.

A. Are you referring to Exhibit 181?

Chairman Aitchison: What in the wide world is the objection to consecutively numbering the pages of an exhibit? What is wrong about that, or unreasonable in asking that that be done? Are we supposed to be clairvoyant, or what, that we can find something on a page that has no number on it?

Mr. Dixon: May I explain, if the Commission please. I believe that this exhibit was prepared prior to the publication of the Commission's new Rules of Practice,—that is, that particular portion of the exhibit; and then after that it was consolidated into one exhibit. That is what makes it sort of cumbersome.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record.

By Chairman Aitchison:

Q. Will you turn to the Cincinnati, New Orleans & Texas [fol. 4130] Pacific. Have you not, in your 4th line of figures there, applied a formula of your own?

A. Why, I would not call that a formula, Mr. Chairman. I call that a line of comparison, because I have offered in this computation several lines of comparison.

Q. This particular one attempts to derive the cost of reproduction of land, does it not?

A. I call attention there, Mr. Chairman, to the fact that I have had a study made, under my supervision, of the reproduction of our land on the basis of adjoining and adjacent values, since 1903, and compare that with the actual cost of the land, and we have allowed 14 cents on the dollar. Now, from the standpoint of prudent investment, of course, we are not going to claim an investment of $14,000,000 with respect to those lands.

Q. You have used this, however, to arrive at the present value of the land?

A. The present prudent investment in property.

Q. Well now, maybe we know that the cost was somewhere around there, and maybe we do not. However, you have used this formula as a multiplier, and have thereby increased the figure $900,000 to approximately $35,000,000, in determining the cost of acquiring the land, have you not?

A. I have done that, sir, yes, but not as a formula; on the basis of experience.

Q. Not as a formula; on the basis of experience?

[fol. 4131] A. Yes, sir.

Q. But reduced to a formula basis?

A. Reduced to a ratio basis, sir. I do not consider a ratio, a formula.

Q. Well, I suppose that if the experience had been something else, the ratio would have been something else; is that correct?

A. It certainly would, yes, sir, and I would have used a different ratio on the Alabama Great Southern from the one used on the Cincinnati, New Orleans and Texas Pacific, because the experience was different.

Q. But you used the same method?

A. Yes.

Q. Well now, if that is not a formula, then I do not know what a formula is. Apparently you and I have very little to differ over.

A. Well, I do not see any reason why anyone should quarrel merely over words, of course, no, sir.

Q. Well, I do not know why anyone should deny the rules of mechanics.

A. I have nothing to do with mechanical matters, Mr. Chairman. I am not a mechanic. I am an accountant, or auditor.

Chairman Aitchison: Continue.

By Mr. Dixon:

Q. Mr. Tassin, what disposition do you make of direct [fol. 4132] costs?

A. As far as direct costs are concerned, as I explained before, I translate them into basic unit values, and apply them where minimum rates are involved, or where there is to be a comparison between different modes of transportation,—where that is pertinent, in other words. However, I have not considered them pertinent in this case.

Q. What are the basic services?

A. I believe I have already covered that subject, Mr. Dixon,—as to the four basic services.

Q. Have you discussed the matter of the separation between freight service and passenger service?

A. I have not as yet discussed the separation between freight and passenger, no, sir. However, I anticipated that, in a way, when I referred to the segregation as between factual testimony and opinion testimony. Dr. Edwards proceeds entirely upon the basis of the separation which he outlined here in his testimony, and that separation is on the basis of opinion testimony and not factual.

By Com. Splawn:

Q. What is the result of experience, except the opinion of him who has had the experience, from looking at what he found the experience to be?

A. The law, Mr. Commissioner, wishes to protect this very important process of finding value, by putting it on a comparative basis, and requiring an explanation of differ-
[fol. 4133] ences, and an analysis of methods. That applies to an accountant, the same as it does to an engineer, and that is why they call them cost figures as well as appraisals.

By Mr. Dixon:

Q. How did you arrive at a separation between the services?

A. I compute the statistical unit values on what is common to both freight and passenger, and then apply that same unit value to either, as may be appropriate.

Q. What are the differences between Dr. Edwards and yourself with respect to car service?

A. I have set up car service as a distinct service. Dr. Edwards apportions car service between linehaul and switching, which I think is an overrefinement that gets us into difficulty, that confuses, rather than clarifies, the issues involved. Car service is a distinct service.

Q. What are the differences between Dr. Edwards and yourself with respect to terminal service?

A. I see no major difference between Dr. Edwards and myself in that connection, except of course that I do not accept his pyramiding of overhead on direct costs.

Q. What do you mean by "pyramiding"?

A. I mean, making the more costly service there the larger proportion of the overhead.

Q. What principle do you apply?

A. My principle is that the elements of overhead should
[fol. 4134] be segregated, and put to one side, and measured by the volume of revenue available to cover them after direct costs have been computed.

By Chairman Aitchison:

Q. Well now perhaps that means something to you, Mr. Tassin, but it does not convey anything intelligible to me. I wish you would explain that a little further.

A. Well, I am going to tell you what I do. Mr. Commissioner. I make this concession to the demand for comparisons, that I surtax overheads on direct costs because people like to see that comparison, but I repudiate that, in principle,—that is, the surtax method. I also excise, from the revenue that is produced by a particular rate, what would be required to cover the general transportation burden if each rate bore its share equally; and that leaves an amount which I compare with the direct cost of transportation on all traffic, which shows whether there is enough to make the contribution or not. I do not subscribe to that method, either, and I offset one with the other to show that both are false.

Q. Well, I do not know what that means, either. What I want to get at is this: We are talking here about the distribution of joint costs——

A. No, sir, I am not talking about that. The question here is—or, what I am talking about is the distribution of [fol. 4135] the transportation burden.

Q. The question was asked you about the overheads.

A. Overheads are an element of the general transportation burden.

Q. Yes, but they are also a joint cost, are they not?

A. I do not consider them as joint costs.

Q. You do not?

A. No, sir. They should be segregated, and dealt with entirely on their own merits.

Q. Well, if they were joints costs, would you have any criticism of the method in which they have been distributed?

A. Yes, sir, because that method *my*ramids them on the more costly operation, so that, the more costly the operation, the greater the proportion of the overheads that is borne.

Q. Is that not the theory that is generally accepted by the economists?

A. That may be, sir; I do not know; but even if they do accept it, I do not accept it.

Q. Well, answer the question, please. Do you know whether or not that is the theory that is generally accepted by economists?

A. I do not know about economists. However, I will say that it is the theory which is usually advanced in these cases. I have not found economists to agree very much on anything.

Q. Or statisticians either?

[fol. 4136] A. That is right, sir,—or lawyers, or any professional man.

Q. As a matter of fact, your own accountants disagree as to statistical or accounting methods, do they not?

A. I do not know as to that, sir, but I might remark, my object is to tell the truth, as I see it, because I do not think that anybody should compromise his honest opinion.

Q. Nobody is suggesting anything of the sort. I am just asking you whether or not other people all have the same opinion that you have.

A. Well, they are coming my way now, I would say, after ten years of effort.

Q. What do you mean by overheads?

A. The question again, please?

Chairman Aitchison: Read it.

(Question read.)

A. I mean by overheads, elements of cost that must be borne by the traffic in general, and that cannot be pinned down to any traffic in particular.

Q. And do I correctly understand you to say that that is not a joint cost?

A. I do not call it a joint cost, I do not consider it as a joint cost, no, sir. It is a cost.

Q. I said, a joint cost.

A. It is a cost that can be prorated.

Q. That can be what?

[fol. 4137] A. It is a cost that can be prorated, but I do not think it is a cost that can be properly prorated.

Q. Oh, well, that begs the whole question.

A. I do not think it does, sir, no. It is a straight answer, —or at least was intended to be.

Chairman Aitchison: All right.

By Com. Aldredge:

Q. Well, do you not consider the cost of maintaining the unused capacity of the railroad plant also as an overhead?

A. I am very sorry, Mr. Commissioner, but I could not hear that back here.

(Question read.)

A. As I stated before, Mr. Commissioner, that would be the cellar floor, under costs, yes, sir, but when you come to the main floor, I want something left in there, for the main floor.

By Mr. Dixon:

Q. What are the differences between Dr. Edwards and yourself with respect to switching service?

A. There is very little difference there. Dr. Edwards throws out of switching into linehaul the train-to-train switching charge. I leave it in there as an element of switching cost.

Q. What are the differences between Dr. Edwards and yourself with respect to road service?

A. We have a considerable difference there. Dr. Ed- [fol. 4138] wards has figured his costs by the mile, using five kinds of miles. I have used two basic measures with respect to road service. I separate the cost of road service between what is affected by weight and intensified by speed on the one hand, and what is not so affected on the other hand. In connection with the first, I develop the tractive effort ton mile unit, and in connection with the latter, the train-hour unit. In other words, the train is a unit of transportation, and I ascertain the cost of the train first, and pass from that to the cost of the car in the train, and then I pass from that to the cost of the ton in the car.

[fol. 4139] Q. How do you proceed to cost particular traffic over a particular route?

A. Well, I get the units of service rendered over that particular route and apply the statistical units developed for that purpose.

Q. What do you do with the total of the result?

A. As to the total of the result—that is the direct cost, of course—I compare that with the rate under review to determine whether the rate makes any contribution to the general overhead burden over and above the direct cost of handling the traffic.

Chairman Aitchison: Do you consider that a formula?

The Witness: I do not consider that a formula, sir.

By Mr. Dixon:

Q. You provide no direct comparison between the individual ratio or computation and the build-up to build costs?

A. No, I do not. All an accountant can do is to show that the given rate under review makes some contribution to the general transportation burden. That contribution is not in margin, but in volume of traffic stimulated.

Q. What is the first such line of general comparison?

A. Well, I have already covered that in trying to explain to Chairman Aitchison that I used both the excise method and the surtax method to show that both are wrong.

Q. What is the alternate line of general comparison? [fol. 4140] A. Well, one line was the surtax method and the other was the excise method.

Q. Do you consider this any more conclusive than the first method?

A. The excise method is not.

Q. What, in the last analysis——

Chairman Aitchison: What is the excise method?

The Witness: The excise method is to take the revenue produced by the rate and deduct it from the amount of revenue required to cover the transportation burden, assuming that all traffic made an equal contribution.

By Mr. Dixon:

Q. What, in the last analysis, do you establish by your procedure?

A. By my procedure I establish whether a rate is or is not a burden on other traffic. If it makes any contribution at all, it is not a burden on other traffic. By "any contribution", I mean any excess over direct costs and possibly over sub-cellar costs at capacity to produce.

Q. In your judgment, is that the extent of the contribution by cost finding procedure to the complex problem of rate-making?

A. Yes. There is the big difference between Dr. Edwards and myself. He assumes you can pass logically from the cost support of a minimum to the cost support of a maximum reasonable rate. I say you have to stop with the [fol. 4141] minimum rate, and beyond that costs have very little influence.

Q. What are the differences between Dr. Edwards and yourself with respect to the cost of non-revenue service?

A. Well, Dr. Edwards absorbs that. Dr. Edwards allows nothing for the contribution by passenger. I compute the

costs of non-revenue service and treat them as an element of overhead.

Q. Under your procedure, what becomes of deficits?

A. Why, deficits just stand against the volume of revenue that is produced which may or may not—for example, in the majority of cases over a period of years, our roads have not been earning their capital carrying costs, so why start out with developing deficits if you cannot carry them to a logical conclusion; and if you do, you find they are not met in the last analysis or only partially met.

Q. Are there any further differences other than with respect to valuation between Dr. Edwards and yourself which you would care to go into at this time?

A. I think not. I think Dr. Edwards and I are very well agreed that if we start out on the right foot, we can regulate the amount of detail work that is necessary in particular cases, and save all of us a lot of grief.

Q. In other words, the principle of the procedure must be established first, and a practical application can be taken up afterwards?

[fol. 4142] A. That is right. Dr. Edwards and I will not disagree very much on practical application of the right principles.

Q. Did you hear the testimony of and examine Exhibits 86 and 87 introduced by Witness Saunders in this proceeding?

A. I did.

Q. Did you pay particular attention to his experience in matters appertaining to railroad valuation?

A. I did.

Q. What has been your own experience in this respect?

A. I was detailed to valuation work in 1914. I stuck with it until 1932 when I was transferred to my present position as general statistician. I had 18 years of that misery.

Q. Other than as a witness and a member of several committees, did you ever have occasion to give public expression to your views on matters appertaining to valuation?

Chairman Aitchison: How important is that?

Mr. Dixon: I do not think it is important, Mr. Chairman. I will withdraw the question.

Chairman Aitchison: Very well. Proceed.

By Mr. Dixon:

Q. What do you consider the basic valuation requirement?

A. The basic valuation requirement, of course, is to get at the physical facts through an actual inventory and then to translate those physical facts into dollars on a three-fold basis, by developing first the original cost to date of those [fol. 4143] units, next the current cost of reproduction, and third the current cost of reproduction less depreciation.

Chairman Aitchison: If we are going to go into that, we will certainly spend hours on these valuation matters. We have listened to the testimony of the Atlantic Coast Line. I have forgotten whether Mr. Tassin spoke of that or not.

Mr. Dixon: Mr. Chairman, I have only a few more questions. I think we will be through in a few minutes, if you will permit me to proceed.

Chairman Aitchison: I do not know why I should permit you to proceed with testimony which is not rebuttal. You are taking time from your colleagues here.

Mr. Dixon: I believe Mr. Tassin had an hour. I do not think he has used that much time.

Chairman Aitchison: He has not even explained these exhibits as yet.

By Mr. Dixon:

Q. Mr. Tassin, your exhibits have been identified as Nos. 183 and 184.

A. Yes.

Q. Please address yourself to those exhibits as briefly as possible, and simply do what you consider necessary to explain the get-up of the exhibits, to assist the Commission and the parties to understand.

A. First, as regards the get-up, and throwing some [fol. 4144] light as to the make-up of these exhibits, all of us have—I know I have—a lot of stock exhibits developed as I am able to develop them and which are usable in various cases. Those are the individual statements and they are gathered together for use in any particular case and stamped in an order in which I wish to introduce them. Take Exhibit No. 183: That is stamped by the identification No. "13", and becomes in that way a section of the entire exhibit.

Q. That is that little blue number?

A. Yes.

Q. At the top center?

A. Yes, the numbering machine number.

Q. Yes.

A. They are simply stamped by numbering machine in the order in which they are to be introduced. Where that section contains more than one sub-section, it is similarly stamped. Where any sub-section contains a number of sheets, those are cut in on a stencil on the typewriter. The reason for that, as I say, is because we all have in storage a lot of this statistical material which we can draw out and use as occasion demands. Take my Section No. 13——

Chairman Aitchison: It does not seem to be here.

Mr. Norman: Is that the little one?

Chairman Aitchison: To what exhibit are you referring now?

[fol. 4145] The Witness: Exhibit No. 183. On the inside of the title page there is shown the section by identification number, and it shows briefly what the section is about. Then in each of those sections where there is a sub-section, the very first section presents a summary, which is the summary that the Commission desires, of what is in that section.

Mr. Norman: So we may be perfectly clear, is Exhibit No. 183 the big one or the little one?

Mr. Dixon: The small one.

The Witness: 183 is the little one, and if you will look on the inside you will see that it has four sections identified by the Nos. 13 to 16, inclusive. This was distributed at Indianapolis.

Mr. Norman: I see now.

The Witness: With respect to Exhibit No. 183, each one of those sections shows what it is about and I am not going to get into trouble by offering any comments. Exhibit No. 184 follows with Section 17, Identification No. 17 and goes through No. 24. Now, I am going to make a brief comment on this Identification No. 17, the fact and extent of revenue need. I have introduced a new comparison here. I have weighted the revenue need of the individual carriers in the United States in proportion to their participation in revenue [fol. 4146] derived from what I call merchandise traffic, meaning by that term manufactures and miscellaneous,

carload and less than carload. Other than that I have no explanation to offer.

With respect to Exhibit No. 18, or Section No. 18, marked for new railroad capital, this is my defense for my use of the 5¾ per cent return on investment as a basis of comparison. Now, I have gone back and studied the cost of new railroad capital or the price of new railroad capital, meaning by that term as it is used in the statistical authorities, the price received for new railroad bonds floated for periods of years. The rate thus disclosed is applicable, of course, to the par value of bonds and is not a proper rate of return to apply to a value that has been discounted anywhere from 30 to 40 per cent. Futhermore, the price that is received for new railroad bonds alone is not sufficient to provide financial security for the railroads.

Take New York, for example: before those securities can be legally acquired by trust companies or savings banks, that fixed charge must be earned once and a half times for one year and at least covered for five years previous. So in order to provide proper credit for railroads, the measure to be used is that price raised by one-half.

[fol. 4147] Chairman Aitchison: What is this all directed to, Mr. Dixon?

The Witness: It is directed to the——

Chairman Aitchison: I am asking Mr. Dixon. What is this all directed to?

Mr. Dixon: Mr. Chairman, I would prefer to have the witness answer that question. As you know, I am only pinch-hitting for Mr. McGehee.

Chairman Aitchison: I see.

Mr. Dixon: I have not been in the case before last Monday.

Chairman Aitchison: What is this all about?

The Witness: This is in rebuttal of the use by Dr. Edwards and Mr. Saunders of a 4 per cent return on 60 per cent of our property.

Chairman Aitchison: I have the impression we went pretty carefully into that question of return.

The Witness: I am only going to make one further comment and call attention to just one thing. It is in Identification No. 23.

Chairman Aitchison: By the way, would you mind turning to your Identification No. 20, Exhibit No. 184.

The Witness: Identification No. 20?

Chairman Aitchison: Yes.

The Witness: Yes. Separation of expenses common to [fol. 4148] freight and passenger service?

Chairman Aitchison: Yes.

The Witness: Supplementing Exhibit No. 30.

Chairman Aitchison: Yes.

The Witness: What about it, sir?

Chairman Aitchison: Turn to sheet No. 1 at the top headed, "Schmidt".

The Witness: Yes, sir.

Chairman Aitchison: You see the line in capital letters underscored, under the words, "Locomotive data"?

The Witness: Statement No. 1 of that Section No. 20, sir?

Chairman Aitchison: No. No. 2.

The Witness: No. 2. You are talking about that mechanical formula used by the Baldwin Locomotive Works?

Chairman Aitchison: Yes. Is that being supported by you?

The Witness: No. You will notice on page 1 I have given you a comparison between the work of two sets of mechanical engineers, the Baldwin Locomotive Works and the University of Illinois.

Chairman Aitchison: I do not notice anything of the sort.

The Witness: What is that?

Chairman Aitchison: Read my remark, please, Mr. [fol. 4149] Reporter.

(Record read.)

The Witness: I want you to get me right, because that is what I intended to do. I set up the comparisons there.

Chairman Aitchison: There is nothing that shows they are comparisons.

The Witness: On the basis of the Schmidt test we would have 5.23, the previous test being on the basis of the Baldwin Locomotive Works formula.

Chairman Aitchison: Which one did you apply?

The Witness: I have been using the Schmidt test because it covers a rather broader field and gave me more statistics than the *Baltimore* Locomotive Works formula. I hold no brief for either one. I use one or the other in a comparative way.

Chairman Aitchison: Well, you have set them forth in your own statement, which you prepared yourself. Now,

you recall the formula which I quoted to you, namely, that energy is the product of mass times the square of the velocity.

The Witness: Well, you were talking about the deterioration of a freight car when it is standing and when it is moving.

Chairman Aitchison: No, I was not.

The Witness: This has to do with the tractive effort [fol. 4150] of locomotives.

Chairman Aitchison: I thought you did not understand me. My question was whether or not there is any greater amount of wear and tear on the loaded freight car than when the same car is moving empty, and you denied it.

The Witness: I said, not always.

Chairman Aitchison: We will let the answer stand. The record will show what you said.

The Witness: What is that?

Chairman Aitchison: We will let the record stand as to what you said.

The Witness: Yes. That is satisfactory to me.

Chairman Aitchison: Proceed.

The Witness: Now, there is one further comment I want to make. I want to call attention to the statistical study that I have made that is embraced in Identification No. 23 whereby I have statistically shown that the Official lines enjoy a more lucrative combination of traffic than the Southern lines.

Chairman Aitchison: Will you tell me where we can find this in here?

The Witness: Yes. Identification No. 23. It is the second to the last one.

Chairman Aitchison: I wish you would find it for me. I cannot.

[fol. 4151] The Witness: I will find it for you, sir.

Chairman Aitchison: All right.

The Witness: The first section immediately following the title page gives a summary of the statistics whereby I have established the facts to which I want to particularly call attention, namely that the composition of traffic is more favorable in the North than it is in the South; that in spite of that, the revenue unit level is higher in the South than it is in the North, although that unit level is now beginning to go down by reason of our loss of the General

Divisions Case. From now on, unless we can make good the through rates, the revenues lost through divisions, our statistical unit shown is going to be worse than for the 20 years past. Now, in spite of our revenue level, unit level, being higher in the South, our operating cost ratios are worse. I show that that cannot be, unless our unit costs are higher.

I have reached the conclusion on a typical basis for the year 1939 that while our revenue unit was 5 per cent higher, our cost unit was 27 per cent higher. For 1940 our revenue unit was 3 per cent higher and our cost unit 29 per cent higher. For 1941 our revenue unit was 2 per cent higher and our cost unit 9 per cent higher. I merely wish to direct attention to that study there. I am now through on direct.

[fol. 4152] By Mr. Dixon:

Q. Do you have any further comments to make, Mr. Tassin?

A. No.

Mr. Dixon: Mr. Chairman, we offer in evidence Exhibits 183 and 184.

Chairman Aitchison: If there is no objection, they will be received.

(Exhibits 183 and 184, Witness Tassin, received in evidence.)

Chairman Aitchison: Is that all?

Mr. Dixon: That is all.

Chairman Aitchison: You may cross-examine.

Cross-examination.

By Mr. Norman:

Q. Mr. Tassin, do you in any of your exhibits which I confess I am unable to follow very exactly—you say you have no formulas, but you certainly have a mass of theories in them—do you in any of those exhibits reach a conclusion as to what is the relative cost, Southern District against the Eastern District?

A. Not in this case, sir. I have contented myself with the measure of revenue need. This is not a minimum rate case according to my concept.

Q. Even if it is not a minimum rate case, there is presented here the question of relative cost, comparisons of the cost of transportation and that is the study which Dr. [fol. 4153] Edwards has made, for example. Now, have you made any similar study or any study to reach a conclusion on that subject?

A. To reach a proper conclusion, I have shown that the cost of earning a dollar is greater in the South than it is in the North.

Q. The cost of earning a dollar?

A. Yes. That is what we are aiming at, the dollar.

Q. Have you shown what the cost of transportation is in the South as compared with the North?

A. I did not consider that pertinent to this case.

Q. Then your answer to my question is that you have not shown it?

A. I have not done so, and I have given you the reason for not doing it.

Q. Now, as I understand you, you say that it is in your opinion impossible to treat the carriers of a given territory as a unit in arriving at a level of cost; is that correct?

A. If you mean a statistical consolidation, my answer is that it is impossible to do so.

Q. So we have a situation here where it is insisted that several territories must be treated as units in arriving at rate levels, but at the same time it is insisted by you that they cannot be treated as units in arriving at transportation costs?

[fol 4154] A. I did not say that, sir. I say they cannot be consolidated, but they can be properly weighted by using proper statistical weighting factors.

Q. Have you weighted them?

A. I have.

Q. You what?

A. I have weighted them.

Q. Now, give us the figures. What is the relative comparison?

A. All right, sir.

Q. Also tell me where I can find where you have weighted them.

A. Exhibit No. 184.

Q. All right.

A. Turn to the inside of the first sheet that is stamped "No. 17" and there you have, sir, five comparisons. Take your choice.

Q. You show here the market for new railroad capital.

A. Yes.

Q. How does that show any relative cost?

A. You are not looking at the very first section of Exhibit No. 184, to which I have directed your attention.

Mr. Norman: I see now.

By Mr. Norman:

Q. The first one that you have is territorial gross revenue need divided by territorial gross operating [fol. 4155] income.

A. Yes.

Q. You find, as I read it——

A. There is your statistical consolidation which I do not accept, but there it is.

Q. You find it is 111 per cent, but I do not know of what.

A. For the entire Eastern section. Look at the heading of the column.

Q. 111 per cent of what?

A. 111 per cent of gross railway operating income. The roads as a whole in the Eastern section require an 11 per cent increase in the gross to give them a living wage.

Q. And in the Southern section, 13 per cent?

A. In Official Territory 10 and in Southern Territory 13.

Q. What is the difference between the Eastern section and Official Territory?

A. The Eastern section comprises both Official and Southern Territories.

Q. Oh. When you put them together, they need 11 per cent?

A. That is right.

Q. When you separate them, Official needs 10 and Southern needs 13?

A. That is right.

Mr. Dixon: Mr. Tassin, will you turn around and face this way a little bit more so the Bench can hear you.

[fol. 4156] The Witness: Yes.

By Mr. Norman:

Q. Then you have another method or theory or something, each road's ratio multiplied by the tinies that ratio was experienced.

A. The measure of greatest common experience.

Q. When you do that, you get the same answers clear across.

A. Yes, you do.

Q. 13 per cent.

A. The general run of road, North and South alike, needs an increase in 13 per cent.

Q. Now, looking down this page, apparently there is a difference in many of these things,

A. Yes. That is correct.

Q. As between Official and Southern.

A. Correct. That is the difference between a formula and a series of comparisons.

Q. Dr. Edwards, you say, used formulas and you used a series of comparisons, but it looks to me like you arrived at about the same conclusion.

A. I hope Dr. Edwards has arrived at the conclusion I have reached here.

Q. You showed there approximately the same thing right down the line there, do you not?

A. No.

Chairman Aitchison: When you talk about the Southern [fol. 4157] lines and Official lines needing 10 and 13 per cent increase in their revenue, that is based upon the consideration of 21 years, is it not?

The Witness: Yes, sir, good and bad alike.

Chairman Aitchison: It is not based upon consideration of revenues even in the recent past?

The Witness: No, sir. You cannot determine that question on the basis of too few years. You must consider the good and bad alike.

By Mr. Norman:

Q. When you take the whole 21 years, though, the answer is about the same in every case?

A. Bearing in mind that the revenue level is much higher in the South than in the North; the revenue unit level and the freight rate level are both higher in the South than they

are in the North. That proves that the Southern level should not be tampered with.

Chairman Aitchison: You would have gotten a different result if you had gone back further than 21 years, would you not?

The Witness: Possibly.

Chairman Aitchison: Why did you not go back further? Why did you just take 21 years?

The Witness: It seemed to me that the period between wars was sufficient. I have covered the entire period between two wars. It looks to me like that ought to give us [fol. 4158] a full range of experience.

By Mr. Norman:

Q. Have you any view to express as to what the result would have been had you used the last five years instead of the last 21 years?

A. I would not use the last five years for that comparison. It would not be adequate.

Q. I know you have not and you say you would not, but I am asking you if you have any view as to what the relative showing would be should your methods be used, and the last five-year period be used.

A. I have not worked it up. I would not object to working it out, if you wish me to do so.

Q. In three out of the last five years, the Southern railroads' returns have been higher than the Eastern railroads' returns, have they not?

A. The last two years, sir, 1941 and 1940.

Q. But I believe you said that for this 21 year period you had taken, the Eastern railroads' returns were about double what they were in the South; is that right?

A. If you will study the 21 year period, you will find that the South was better off in 1925, and then we had to wait until 1940 to get back.

Q. I know, but didn't you give us some figures here about the rate of return for the 21 year period?

A. The rate of return is included in these comparisons. [fol. 4159] Q. Did you not show that for the 21 year period it was 1-something, for the South, and 2-something for the North?

A. You have your witness mixed up, Mr. Norman.

Q. You did not show that?

A. I did not show that.

Q. So you have not shown the comparative rate of return for any period?

A. I have got the rate of return in this basis of comparisons which I consider more accurate than by determining the rate of return, because it gets away from these deficits which should not be handled on a rate of return basis, but it gives you the same result. If you set it up on a basis of comparison of rate of return, you will find the same answer, that over a period of years the South is worse off than the East in the matter of rate of return that has been earned.

Mr. Norman: Let me ask you this final question:

By Mr. Norman:

Q. Is it not true that if you take the last five years, the South is better off than the East?

A. I cannot answer that "Yes" or "No", because I have not figured it. I would admit it frankly if I had worked it out, and that was the result.

Mr. Norman: That is all.

Chairman Aitchison: Are there any further questions?

Mr. Selker: I have one or two questions, Mr. Chairman.

[fol. 4160] Chairman Aitchison: Mr. Smelker.

By Mr. Smelker:

Q. Mr. Tassin, while you have Exhibit No. 184, page 1 of Identification No. 17 before you, do not your comparisons there reflect not merely differences in costs, but also differences in level of earnings as reflected by rates and divisions?

A. They reflect the relation of one to the other.

Q. Now, taking your study as a whole as compared to Dr. Edwards', you are combining value of service and cost of service in one study, whereas Dr. Edwards keeps them separate, is that not true?

A. It is just the reverse, sir. Dr. Edwards uses value of service and I use cost of service.

Q. Where does he use value of service?

A. Where he uses the value furnished him by the Bureau of Valuation. That is value and not cost of service.

Q. We are talking about value of service to the shipper, not value of the railroad.

A. Oh. Value of service to the shipper.

Q. Yes.

A. My basic concept there is that the shipper pays for one thing and one thing only: The transportation of his person and property. He acquires no 50 per cent interest in the railroad through the accrual of depreciation.

Q. For instance, take passenger deficit; Is it not true [fol. 4161] that Dr. Edwards shows it, both on a per ton and per ton mile basis, but does not show which particular ton should bear it?

A. No.

Q. Is that not true?

A. No.

Q. Why not?

A. You mean, Dr. Edwards in his last study?

Q. Yes, Exhibit No. 13.

A. In Exhibit 13 Dr. Edwards has spread overhead on the tonnage basis; that is correct.

Q. In the separation of fixed charges such as general expenses, traffic expenses, taxes, capital costs and non-revenue expenses, does the experience of the Southern roads indicate that these are all unaffected by added traffic?

A. Most certainly they are not. They are very much affected by added traffic. Added traffic gives us an increased volume of revenue which pays for it.

Q. Also it means, though, does it not, that the increase in expenses is not in proportion to the increase in volume of revenues; there is added expense, but not in as high proportion. More of the money goes into the cash drawer, or remains there, I mean.

A. That is correct.

Q. Referring to car service cost, where do you place car [fol. 4162] service costs if none are in the terminal?

A. I determine it on its own merits, irrespective of whether the car is on the road or in the terminal.

Q. What does that mean? Is it car days in the terminal?

A. I do not think that matters a bit, whether the car is in the terminal or on the road. We are using the car. It is the service of the car properly measured that counts.

Q. How do you measure it, then?

A. I measure it in several ways. I think the most accurate way is on a per day basis. A car that is standing in the terminal five days certainly should be saddled with a higher expense than a car that is running on the road one

day. It is for the reason that the time that the cars spend at terminals, the allowance for loading and unloading vary so greatly, I did not find it practicable to attempt a separation of car service as between linehaul and terminal. Car service should be measured strictly on its own merits on a per day basis, a per mile basis or any proper method.

Q. Has not Dr. Edwards just done that on a car day and car mile basis?

A. But he makes an arbitrary split between linehaul and terminal which is a needless complication, as I see it, if he reaches the same answer I do. I would not quarrel with him except that he has given himself certain unnecessary [fol. 4163] work.

Q. Well, how are you going to get at the terminal costs, if you do not split it?

A. For cars?

Q. Yes.

A. I do not think you need the terminal costs for cars unless you are putting in a switching study where that is pertinent. Then you would work it up.

Q. Does that go in as overhead?

A. What?

Q. Does that go in as overhead?

A. Car service?

Q. Yes.

A. Oh, no. It is a direct cost.

Q. You stated earlier that Dr. Edwards used fact and opinion in separating freight and passenger costs. Did he not use the separation based on Interstate Commerce Commission rules and regulations?

A. They are the result of opinion.

Q. But they are the rules of the Commission, are they not?

A. The rules of the Commission are the result of opinion.

Com. Splawn: You are not criticizing him for using those opinions; you are just merely pointing out what you think is opinion?

The Witness: Except for this, Mr. Commissioner: He [fol. 4164] has put himself or the Commission upon the horns of a dilemma. The Commission has either got to change its separation, or change his five mile basis for separating costs of freight trains between different types of trains. He starts out with one figure, one basis, and substitutes an-

other method. Either one or the other should be consistent throughout.

By Mr. Smelker:

Q. Will you amplify that statement a little more?

A. What I mean is this: Under the rules of the Commission we get the cost of a composite passenger train on one hand and a composite freight train on the other, arrived at in ways set forth by the Commission. Now, Dr. Edwards takes the cost of this composite freight train and breaks it down between through freight and local freight using different methods than the Commission used in setting up the cost of the composite freight train, the result being that either one or the other must give way. There is the dilemma.

Q. Where, in Dr. Edwards' exhibits, did he make any separation between through freight and local freight?

A. Whenever you price, you make a separation of the thing priced. He has priced a typical train and in pricing that typical train he has made that separation on the basis of his method.

Q. Will you point out the table number of the exhibit [fol. 4165] where Dr. Edwards does that?

A. I do not have that in front of me, but his exhibit will clearly show where he arrived at his train unit costs.

Q. With a separation as you have indicated, between through and local freight?

A. In this particular case I may be wrong in saying that, because he has used the composite train, but he has used a different method in pricing out that composite train than what the Commission has in making the separation. He has used the gross ton mile and sometimes the car mile.

Q. But you admit that Dr. Edwards has not changed the Commission's separation in so far as their rules are concerned?

A. He applies a different method in pricing out freight from what the Commission used in separating the total cost of freight; not to such a great extent in this case, but in his more complicated formulas, it is involved more seriously.

Q. You are familiar with Dr. Edwards' Exhibit 12, are you not, submitted at the Indianapolis hearing?

A. Yes.

Q. On page 93 thereof this statement is made, at the top of the page: "No attempt has been made in this study to indicate what constitutes a fair rate of return." Now, he used both 4 per cent and 5¾ per cent in his Exhibit 13, did he not?

[fol. 4166] A. He did, and I did not get alarmed until he put that 4 per cent in.

Q. Then did he not state in Exhibit No. 13 that 4 per cent was used, but no brief was made as to either 4 per cent or 5¾?

A. I have always felt it dangerous——

Q. Just answer the question "Yes" or "No".

A. What?

Q. Answer the question "Yes" or "No".

A. He said he was holding no brief for it.

Q. Yes.

A. I am glad he does not.

Q. Do you make use in ascertaining your costs of the formula for determining resistance per ton mile as developed by Professor Schmidt of Purdue?

A. He made a study. I do not know that it is a formula. He made an actual study of train resistance.

Q. That is an integral part of your costs, is it not?

A. I use it, yes, sir.

Q. If you leave your cost for intra-train switching in terminal costs, how do you figure the amount to be included for a 50 mile haul as against a 500 mile haul?

A. Under my system I allow for intra-train switching at the various points at which it actually occurs. I likewise cost out over an actual route.

[fol. 4167] Q. That is a formula; is it not?

A. It is not a formula, no. I am following a fact.

Q. How do you develop that for all the hauls in the whole territory?

A. That would be an enormous job. Take the traffic that you are interested in and find the route over which the traffic moves. I took the actual trains that moved over the actual routes and I applied my costs to those facts, the elements of service.

Q. How would you apply it in this case?

A. I do not. I do not think it is necessary in this case.

Chairman Aitchison: Do you think it would have been possible?

The Witness: Not nationwide, no, sir. You cannot go to that refinement in cost finding. That is why I said that Dr. Edwards' cost scales cannot be used. There is no traffic moving to which they can be applied.

Mr. Smelker: This refers to a statement that you have made during your testimony.

By Mr. Smelker:

Q. At what point in Dr. Edwards' study does he pass from the minimum to the maximum reasonable rate as you implied in your testimony?

A. His development of out-of-pocket costs, as I understand it, is for the purpose of measuring a minimum rate. Then he develops a cost at the level of expenses less taxes. [fol. 4168] That is too high a level because it includes traffic expenses, general expenses and taxes which I eliminate.

Com. Splawn: Let me see if I understand you.

By Com. Splawn:

Q. Your difference with Dr. Edwards on the out-of-pocket cost is that he includes too much; that his is too high?

A. It is unquestionably too high, and it is done on a wrong theory, a wrong basis. You cannot develop that on a percentage basis.

Q. When we get representations from your roads that certain rates which they have filed to meet competition are compensatory, you have figured them on this basis you have just given us as to what out-of-pocket is, is that correct?

A. When my traffic department refers such a rate to me, that is the way I test it out, sir. That is my method.

Q. Are you the advisor to the rate people, the tariff people, who file these tariffs to meet competition?

A. Generally.

Q. When we get representations from the South that a particular tariff is compensatory, which is protested by somebody as being below minimum, has the measure of whether it is compensatory or not been determined by your formula as to out-of-pocket costs?

A. I am not an advisor. I am an informant. They do refer these matters to me, and I do tell them and show them [fol. 4169] what the result is, whether that rate will help pay the burden.

Chairman Aitchison: You have used this formula in justification of applications for Fourth Section relief, have you not?

The Witness: The old rules of the Commission prescribed the use of the Transcontinental formula in that case, if you recall. I have defended those rates, however, on basis of my concepts of cost finding procedure.

Chairman Aitchison: You did that in a proceeding before me, did you not?

The Witness: I did, before you, at Charleston, sir.

By Com. Splawn:

Q. If, say, half of the traffic were to move under such conditions and contribute just what you figure is out-of-pocket, or a shade above, Mr. Tilford would have reason to despair of the railroad situation, would he not?

A. That is true, and that is why I developed cost at capacity to produce, because at capacity to produce we could carry that volume at those costs, but we could not carry half of it at those costs.

Q. That is where you figure that this out-of-pocket cost is ordinarily but an infinitesimal fraction of the total?

A. My position is that we should not go below cost at capacity to produce, and I cannot advise anything else as a statistician.

[fol. 4170] Mr. Smelker: I still do not think you have answered my question.

The Witness: What question?

By Mr. Smelker:

Q. At what point in Dr. Edwards' study does he pass from the minimum to the maximum rate?

A. Every time he passes from one level to a higher level.

Q. Point that out specifically.

A. All the way through. He will admit that. He passes from one level to a higher level all the way down, until he gets to the highest level of all where he saddles on freight, passenger deficit and a full return on investment.

Q. He has never referred specifically in his study to a maximum rate, has he?

A. No, but what other purpose can there be for the establishment of those varying levels upward?

Chairman Aitchison: Does that concern an accountant, what the purpose may be?

The Witness: It certainly does concern me, when our revenues are at stake.

Chairman Aitchison: An accountant is supposed to produce a result, and not be an advocate. He cannot be personally interested in the matter.

The Witness: The accountant must hold the mirror up to the operating man.

By Mr. Smelker:

Q. He just shows the full distributed costs, does he not?

[fol. 4171] A. If you want to call it the full distributed cost.

Q. Above or below the maximum or minimum?

A. Yes. I would not quarrel about that. However, he does step it up, up, up. That is what I am objecting to.

Q. He does not call them maximum reasonable rates, though.

A. He does not use those words. I use those words.

Mr. Smelker: That is what I was getting at.

By Mr. Smelker:

Q. Now, with respect to one of your Indianapolis exhibits, under your method of apportioning train crew costs on a train hour basis as shown in your exhibit, do you not throw twice the crew expense to a slow freight taking 8 hours to run 100 miles as compared to a fast freight taking 4 hours to run 100 miles, although the actual crew compensation for the 100 miles is the same in both cases?

A. That is not a correct statement of the facts.

Q. What are the facts?

A. The correct statement of those facts is this: By reason of the labor agreements and to equalize the earnings of train crews, those crews that enjoy the more favorable runs are not allowed to make as many runs as certain other people who have less highly paid compensation. When it comes to train wages including engineers' wages, we have in effect a pooling of costs and the cost accountant must intelligently [fol. 4172] analyze and develop his protective labor agreements out of the pool. It is not a question of principle. It is a question of practical application.

Q. Does not actual cost follow actual wage payments?

A. No, not when the wage payments are based upon that sort of an arrangement. There is in effect a pooling.

Mr. Smelker: That is all.

Mr. Dixon: That is all.

Chairman Aitchison: Are there any other questions of this witness? (No response.) If not, you are excused.

(Witness excused.)

Chairman Aitchison: Call your next witness.

Mr. Gwathmey: If the Commission please, the Southern rail lines have now completed their presentation of their testimony at this hearing. May I be permitted at this time to make a very brief statement of position on behalf of the Coastwise Steamship Lines which operate along the Eastern Seaboard? It will only take about three minutes.

Chairman Aitchison: Very well. Proceed.

Mr. Gwathmey: I have been requested to make for the record a statement on behalf of the coastwise steamship lines which operate, or formerly operated, between the north Atlantic ports, on the one hand, and Virginia and south Atlantic ports, on the other, namely: Agwilines, Inc. (Clyde-Mallory Lines); Baltimore Steam Packet Company; Bull [fol. 4173] Steamship Line; Eastern Steamship Lines, Inc.; Merchants and Miners Transportation Company; Philadelphia and Norfolk Steamship Company; Ocean Steamship Company of Savannah.

As the Commission knows, the rail-water, water-rail and rail-water-rail rates in connection with all-rail lines operating to and from the respective ports have for many years been made with a differential relationship to the all-rail rates and in all instances rates between the ports are lower than all-rail. These steamship lines are named as respondents in the Commission's order of investigation in this proceeding. They feel that it would be wholly impracticable to offer evidence in this record dealing with the above-mentioned differential relationship, or with the amounts of such differentials as should reasonably be fixed if a change in the level of the all-rail rates should be brought about as a result of this proceeding. Their reasons for this belief are (1) that the scope of the proceeding is such that it would hardly be practicable to go into this question at any length without unduly burdening the record; (2) that none of these steamship companies (except to a very limited extent) are oper-

ating their coastwise services at the present time, their vssels having been taken over by the Government for work more essential to the war effort; (3) that there is no way [fol. 4174] of forecasting at this time what, if any, new all-rail rates will result from this proceeding; and (4) that the traffic departments of these companies have necessarily been so drastically curtailed that they are not adequately equipped at this time to prepare and offer evidence in this proceeding. These steamship companies, however, desire it to be understood that in not presenting evidence at this time they do not in any respect waive their right to rates differentially related to the all-rail rates, and, while they are not here advocating any change in the all-rail rates, they feel that if any readjustment in them is effected provisions should be made so that differentials would not be any lower than those which are observed at the present time.

A brief and very general description of the territories covered by these differential rates is as follows:

Between Trunk Line and New England Territories, on the one hand, and Southern Freight Association Territory on the other. From Trunk Line and New England Territories to Trunk Line Association, Central Freight Association Territory, Western Trunk Line Association Territory and extended areas thereof and certain portions of Southwestern Territory. From Trunk Line Association Territory and Central Freight Association Territory to North Atlantic Ports. Between New England Freight Association Territory on the one hand and New York City and its environs on the other.

[fol. 4175] In some instances the amounts of existing differentials are definitely fixed, having been prescribed by the Commission or agreed to by the rail lines and water lines respectively. In other instances the question as to the proper amount of such differentials is now before the Commission in pending proceedings. Thank you.

Chairman Aitchison: I want to ask on whose behalf the witness Tassin was presented?

Mr. Gwathmey: I did not present him, your Honor. I just happened to be on the floor at the moment. I did not present him. I understand he was presented as a witness for the Southern Railway System Lines.

Chairman Aitchison: Very well. Is there anything further on behalf of the Western roads?

Mr. Barron: Mr. Chairman, I was wondering whether it was your pleasure to continue now, or adjourn for lunch?

Chairman Aitchison: Go ahead.

Mr. Barron: Take the stand, please, Mr. Stanage. Mr. Stanage has appeared before in this proceeding and has been sworn. This is in rebuttal of testimony that has been offered on behalf of the Southwestern shippers.

B. H. STANAGE recalled.

Direct examination.

By Mr. Barron:

Q. Are you the same B. H. Stanage who testified at the [fol. 4176] Indianapolis hearing in this case?

A. Yes, sir.

Q. Have you prepared or had prepared under your jurisdiction certain rebuttal testimony which you wish to offer in this proceeding?

A. Yes, sir.

Q. Are those exhibits true and correct to the best of your knowledge and belief?

A. They are, yes, sir.

Q. You have a prepared statement which you are going to read?

A. Yes.

Q. And two exhibits which have been distributed?

A. Yes.

Mr. Barron: Mr. Chairman, I was going to suggest that we might number as Exhibit No. 185 the exhibit which bears the symbol "S-4" in the lower right hand corner, and as Exhibit No. 186 the exhibit which bears the symbol "S-3."

Chairman Aitchison: They may be so marked.

(Exhibits 185 and 186, Witness Stanage, marked for identification.)

By Mr. Barron:

Q. Proceed, please, Mr. Stanage.

A. Testimony has been offered by Southwestern shippers and representatives as to rates and industrial development. So that the Commission might have a complete picture, I [fol. 4177] wish to point out that during the last few years

numerous paper mills have located in Arkansas, Louisiana and Texas. There are now 9. On page 79, my Exhibit 63, is shown rates on paper to representative northern consuming markets.

Chairman Aitchison: I have forgotten; were those class rates or exceptions or what?

The Witness: Those were class rates—I mean, commodity rates. They are shown, Mr. Chairman, to substantiate the statement I will make later on that the Southwestern lines have encouraged the location of industries and have done everything in their power to assist in their development. These are just probative facts supporting the statements I make.

By Mr. Barron:

Q. Are the rates published as specific commodity rates or as exceptions to the classification?

A. They are published both ways.

Q. All right. Go ahead.

A. On page 82, Exhibit 63, is shown list of commodities moving in carloads from Southwestern Territory to destinations in Western Trunk Line, Official and Southern Territories. On page 83, Exhibit 63, is shown list of commodities moving in carloads from Official, Southern and Western Trunk Line Territories to Southwestern Territory.

Traffic Departments of Western carriers maintain organizations whose duties include the furnishing to indus- [fol. 4178] trial organizations and others upon request basis data as to the source of raw materials, labor conditions, location of available sources of power, viz: coal, electricity or fuel oil, and approximate cost of such material or services, available water supply, available land and tax rates at various points and other information usually sought by parties seeking industrial sites. These organizations contribute in every way possible to the location of new industries in the Southwest.

It has been the experience of the Industrial Department of the Frisco that information of this character is generally secured and passed upon by parties seeking to locate an industrial plant on the Frisco. Subsequently, we often receive a request for information as to existing rates. In some instances, we receive requests for the establishment of new rates.

Recently, a manufacturer of Perchlorate of Potassium established a new plant at Claremore, Oklahoma. Claremore 399 miles from St. Louis and 236 miles from Kansas City is served by the Frisco and Missouri Pacific. Before locating at Claremore they considered Chelsea and Collinsville, Oklahoma, and Knoxville, Tennessee, as possible locations. At their request the following rates on Perchlorate of Potassium were recently established.

To Benton, Illinois, 49 cents per 100 pounds; to Meadow [fol. 4179] View, Virginia, 72 cents per 100 pounds; to Mannington, West Virginia, 104 cents per 100 pounds.

In August, 1941, a large paper mill was completed at Cantonment, Florida, a point on the Frisco just north of Pensacola, Florida, an investment of two and a half million dollars. On pages 84 and 85, Exhibit 63, are shown rates on in and outbound commodities established for this industry. In the fall of 1940 a Corrugated Box Company located at Forth Worth, Texas. On pages 86 and 87, Exhibit 63, are shown rates established for this industry.

Exhibit 185, 12 pages, shows data relative rates on 21 other commodities. These are typical cases where the Southwestern carriers established rates to assist in the industrial development of the Southwest.

Q. These are in addition to those that were introduced in your other exhibit at the Indianapolis hearing, is that correct?

Q. Yes.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record.

By Mr. Barron:

Q. Proceed.

A. The Western carriers are ready, anxious and willing to at all times establish lawful rates to aid in developing the natural resources of the Southwest. During the last [fol. 4180] decade several hundred industries have been built and are operating in the Southwest manufacturing and distributing a great variety of products. Among the commodities manufactured and shipped are the following: Chemicals, Carbon Black, Paper, Paper Boxes, Soda Ash, Prepared Roofing, Window Glass, Oil Well Supplies, Sul-

phuric Acid, Asphalt, Boilers, Iron and Steel Tanks, Formaldehide, Perchlorate of Potassium, Soap, Batteries, Cheese, to mention only the more important.

Exhibit 186, 12 pages, lists industries established in Southwestern Territory during the decade 1932-1941 inclusive, a total of 770. Some representatives of shipping interests and certain territorial representatives advocate that the Official Classification Territory scale should be prescribed for interterritorial and intraterritorial application throughout the territory involved in this proceeding. To show the result of applying the Central Freight Association scale throughout Southwestern Territory, also for interterritorial application, attention is directed to the rate data shown on pages 89 to 93, of my Exhibit 63. There is shown the first class rates from representative manufacturing and distributing points in Official, Southern, Western Trunk Line and Southwestern Territories, to representative destinations in the Southwest, compared with rates based on application of the Central Freight Association [fol. 4181] (Appendix E, Docket 15879, 164 I. C. C. 314-467, scale) for the total distance to show the effect upon the manufacturing and distributing industry in the Southwest of the establishment of the Central Freight Association Appendix E scale.

Attention is directed to the information shown on lines 1 and 2, page 89, Exhibit 63. This example shows the rate situation in connection with the distribution of a box of shoes taking first class rate, manufactured in Boston, Massachusetts, shipped to a retail merchant or consumer at Wichita Falls, Texas, in competition with a manufacturer-distributor located at Oklahoma City, Oklahoma, shipping to the same retail merchant or consumer the Central Freight Association scale applied to both movements. On line 1 is shown the short line distance from Oklahoma City, Oklahoma, to Wichita Falls, Texas, 141 miles, present rate 107 cents, rate based on Central Freight Association scale 73 cents.

On line 2, the distance from Boston, Massachusetts, to Wichita Falls, Texas, is 1,857 miles, present first class rate 377 cents. On basis of Central Freight Association scale for the distance, the rate would be 278 cents. It will thus be noted that the present spread in rates, Boston, Massachusetts, over Oklahoma City, Oklahoma, to Wichita Falls, Texas, is 270 cents. This is arrived at by deducting 107

[fol. 4182] cents, the present first class, Oklahoma City to Wichita Falls, from the present through rate from Boston to Wichita Falls of 377 cents. If the rates from Boston and Oklahoma City to Wichita Falls were based on Central Freight Association scale, the rate from Boston to Wichita Falls would be reduced 99 cents from 377 cents to 278 cents, while the rate from Oklahoma City would be reduced 34 cents or from 107 to 73 cents. Stated otherwise, the spread in the rate paid by the Boston manufacturer, versus the Oklahoma City manufacturer in selling his customer at Wichita Falls, would be narrowed 65 cents, 270 to 205 cents.

It will thus be noted that if the present rates from Eastern industrial manufacturing points to the Southwestern markets are revised to the Appendix E Docket 15879 scale, the Eastern manufacturers will thereby secure a substantial reduction in the spread in their rates when compared with those of the Southwestern manufacturers and distributors shipping to the same Southwestern markets.

If the first class rate from Boston to Wichita Falls was revised on the basis of adding to the spread in the rates Boston to Wichita Falls versus Oklahoma City to Wichita Falls or a spread of 205 cents shown in Column E and adding thereto the present Oklahoma City rate to Wichita Falls of 107 cents, the rate thus made of 312 cents shown [fol. 4183] in Column G, page 89, Exhibit 63, would in effect move Boston, Massachusetts, west 552 miles or to Harbor Creek, Pennsylvania, a point about 80 miles west of Buffalo and about 7 miles east of Erie, Pennsylvania.

The present rate from Harbor Creek, Pennsylvania, to Wichita Falls, Texas, is 318 cents shown in Column J, page 89, Exhibit 63.

On pages 90 to 93, Exhibit 63, is shown the same kind of comparisons using other origin and distribution points, except that information under Column G is shown only from one point. This was due to the work involved in compiling the information. If the present rates on various commodities manufactured in the Southwest were revised to basis of the Central Freight Association scale the rates on many commodities would be increased substantial amounts. On pages 98 to 100 Exhibit 63, are shown comparisons of rates on moving commodities such as refined oil from Tulsa, Oklahoma, to representative northern markets and on win-

dow glass from Southwestern producing points of Henryetta, Oklahoma, Fort Smith, Arkansas, and Shreveport, Louisiana. Similar comparisons on other commodities are shown on pages 102 to 107, inclusive. The rates shown on these pages do not include the Ex Parte 115, 123 or 148 increases.

On pages 128 to 131, Exhibit 63, are shown the first class key rates prescribed by the Commission in its 21st Supple-[fol. 4184] mental Report in Consolidated Southwestern Cases between representative points compared with first class rates from and to the same points constructed on the basis of the distance scale of rates and differentials prescribed in the 21st Supplemental Report applied in accordance with the provisions of Finding 3 of said report. It will be noted that in the instances shown the key point rates are lower than they would be if based on the scale. In some instances the differences are substantial.

The rates prescribed in the 21st Supplemental Report effective April 9, 1937, narrowed the spread east side versus west side Mississippi River crossings Memphis and South in effect prior thereto as result of the Commission's initial decision, 123 I. C. C. 203, effective July 14, 1928. On pages 132 to 141, Exhibit 63, is shown the first and sixth class rates, (Southern Classification) between St. Louis, Louisville, Cincinnati, Chicago, and various points in Central Freight Association Territory to east side Mississippi River crossings Memphis and South compared with first class and fifth class rates Western Classification between the same points on the one hand and opposite west side Mississippi River crossings on the other. For example, it will be noted by reference to page 134 that the spread in the first class rate Chicago, Illinois, to Memphis, Tennessee, versus the rate to the opposite bank, Bridge [fol. 4185] Junction, Arkansas, was narrowed from 23 to 11 cents per hundred. On fifth class the spread was reduced from 9 to 2 cents.

Mr. Bee: May I ask what this is going to be in rebuttal to, describing the application of the bridge scale?

Mr. Barron: The bridge scale is as much a part of the rate as the rate itself.

Mr. Bee: Did anyone object to the present application of the bridge scale or say anything about it? I am trying to find out what it rebuts, what testimony it rebuts.

Mr. Barron: It rebuts the general testimony of Witness Murray, Witness Byars and Witness Tanner.

Mr. Bee: About the bridge scale?

Mr. Barron: No; about the general rates. You know—at least you should know—that the bridge scale is as much a part of the rate as the rate itself.

Mr. Bee: How can a witness like Mr. Byars located at least 400 miles from a point where the bridge scale can touch him talk about the bridge scale?

Mr. Barron: What difference does it make how far he is away, as long as the bridge scale is in use?

By Mr. Barron:

Q. Proceed, Mr. Stanage.

A. I will now deal with the bridge scale of arbitraries. After the Commission set various key rates it found some modification necessary with respect to the interterritorial [fol. 4186] rates on the general bases prescribed and applicable over routes operating through the Mississippi River Crossings Memphis and south.

It found this situation would accrue mostly where substantial differences exist in Classification ratings governing the rates east of the river as contrasted with those governing the interritorial movement. To correct the situation the Commission in Appendix D, 205 I. C. C. 601-736, prescribed a "bridge scale" of arbitraries on the 26 columns to be made the same percentages of those first class arbitraries as provided for the road haul rates, for grading interritorial rates to and from border points. The arbitraries are governed by the Western Classification, except from Southern Territory to points in Arkansas and Louisiana 140 miles or less from the Mississippi River crossings the arbitrary scale is also subject to exceptions published in SWL Tariff 173-0. These arbitraries are added to the rates applicable east of the river.

Such arbitraries are provided not for the purpose of making absolute rates, but as factors for alternative use in those instances where they would serve to scale down the key-point rates or other rates prescribed in the Commission's decision.

In applying the "bridge scale" it is first necessary to determine the through rate, then determine the rate using [fol. 4187] the scale of bridge arbitraries for the factor

west of the Mississippi River Crossing and add that factor to the rate applicable from the point of origin to the river crossing. These factors are combined to determine the through charge and apply in the event the total is less than the through rate.

For example, taking a given article rated Fourth in Southern Classification and Second Class in Western, the applicable through rate would be the Second Class arbitrary west of the Mississippi River Crossing under the bridge scale added to the Fourth Class rate east thereof provided that the total rate on the given article is less than the through second class rate.

The total rate so obtained is to be used whenever lower than the interritorial joint rates prescribed on the key rate or distance basis. On pages 142 to 145, Exhibit 63, are shown the first class rates between representative origins in Official and Southern Territories and Memphis, Tennessee, Vicksburg, Mississippi, Baton Rouge and New Orleans, Louisiana, also first class rates between the same origins and representative destination in Arkansas and Louisiana (west of the Mississippi River) within 170 miles of the river crossings. The statement shows the reductions effective April 9, 1937.

On pages 146 and 147, Exhibit 63, is reproduced the [fol. 4188] tariff items governing application of alternative maximum rates between Southern and Southwestern and Official and Southwestern Territories as published in Agent J. R. Peel's I. C. C. 2883 and 2882. On page 148, Exhibit 63, is shown reference to actual movements on which the bridge scale was used in constructing the lawful charges. The through rates and the applicable rate constructed by applying the rates to or from the river crossings and adding the applicable bridge scale arbitraries thereto are shown.

For example, refer to the first item on page 148, Exhibit 63, covering a movement of blankets from Biddeford, Maine, to Little Rock, Arkansas. It will be noted that the published through rate is $2.16. The combination using the bridge scale rate Memphis to Little Rock of 50 cents added to the rate from Biddeford Maine, to Memphis of 152, total 202 cents, cut the published through rate 14 cents per 100 pounds.

Thus instead of the adjustment prescribed by the Commission in the 21st Supplemental Report producing wide spreads at the border points which seems to be the source

of much argument, the Commission has been at great pains to narrow the spreads and has adopted the bridge scale plan to bring about the avoidance of any excessive hump along the border.

Witness Byars on page 2, Exhibit 102, R. P. 2068, shows [fol. 4189] rates on carbon black in Official Territory. Minerals Year Book, 1940, U. S. Department of the Interior, page 1083, shows that carbon black is only produced in Kansas, Louisiana, Oklahoma and Texas, a total of 51 plants. The output for 1940 totalled 568,792,000 pounds. There is no production of carbon black in Official Territory.

Chairman Aitchison: Well, is there any movement on rates in Official Territory?

The Witness: I never was able to find any, no, sir. There is a movement from the Southwest to Official Territory on commodity rates.

Mr. Barron: Mr. Chairman, do you mean originating in Official Territory?

Chairman Aitchison: Carbon black is not produced in Official Territory, but suppose it comes from somewhere else; having come to rest in Official Territory, does it move elsewhere on commodity rates?

The Witness: I have never been able to develop any movement, no, sir.

Chaiman Aitchison: Is there anything further?

Mr. Barron: Yes.

By Mr. Barron:

Q. Have you reviewed the testimony offered at Indianapolis on behalf of certain Southwestern shipping interests?

A. Yes, sir.

[fol. 4190] Q. Have you any comments to make on such testimony?

A. Yes, sir.

Q. If you have, make them as briefly as possible, please.

A. Witness Murray at page 1986 in discussing the——

Com. Splawn: Let me interrupt you, please.

The Witness: Yes.

Com. Splawn: With respect to the carbon black, as I recall Mr. Byars' testimony he stated he was merely giving rates in response to a direction from the Commission. What is your comment about those rates, that the origins are very few?

The Witness: Yes, sir. According to my idea it shows a comparison of the present Southwestern rates to Eastern markets with the rates based on the application of the C. F. A. scale, and I want to show that there is no production in C. F. A. Territory, to show that there is——

Com. Splawn: There is some carbon black produced in West Virginia, is there not?

The Witness: Not according to the information contained in the United States Minerals Year Book for 1940.

By Mr. Brown:

Q. Those carbon black rates from the Southwest to Official Territory were prescribed by the Commission, were they not?

A. There have been some cases in which they have been prescribed. I will not say they have been prescribed in [fol. 4191] every case, because I think there were some that were made by the railroads.

Mr. Barron: Is that all, Mr. Commissioner Splawn?

Com. Splawn: Yes.

By Mr. Barron:

Q. Will you please proceed, Mr. Stanage.

A. Witness Murray at page 1986 in dealing with the forest products situation in Arkansas made this statement: "I cannot say how much, but a great deal of the forest products shipped outside of the State of Arkansas and noted here as exported are semi-finished materials such as staves, headings, box material and things of that kind. In other words, we cannot finish a lot of our own wood products." Now, I take exception to that statement because Arkansas has a great number of wood manufacturing concerns which I want to list here: Furniture; fruit and vegetable packages; finished handles; caskets; cabinets for use by the Singer Sewing Machine Company; bottle carriers; flooring, finished implements parts; finished farm wagons; excelsior; gun stocks; wooden boxes and fiberboard boxes combined. I can give the Commission the shipping points where those plants are located. I merely want to call attention to the fact that Mr. Murray's statement is incomplete, and those finished wood products——

Com. Alldredge: Incomplete or incorrect?

The Witness: "Incorrect" would be a better word.

[fol. 4192] By Mr. Barron:

Q. Those finished wood products do move out of Arkansas, do they not?

A. Yes, sir.

Q. All right.

A. In volume.

Q. Please proceed.

A. Witness Byars at record page 2077 commented upon his inability to secure—or commented upon the fact that his clients were unable to secure a reduced rate on flour from Texas mills to North Atlantic Seaboard territory, and he made this statement: He said that the Southwestern lines agreed to the adjustment he sought and that the Trunk Lines put their big No. 11 foot right down on it and stopped it. I wish to state that the Southwestern and Western Trunk Line carriers both opposed the revision suggested by Mr. Byars.

Com. Alldredge: So there were two big No. 11 feet put down on it?

The Witness: Sir?

Com. Alldredge: There were two big No. 11 feet put down on it?

The Witness: Three. Further, at page 2078, he commented on his inability to secure an adjustment of rates on peanut flour, a new industry at Fort Worth, to Official Territory. That adjustment was published effective No-
[fol. 4193] vember 10, 1942, in Agent B. T. Jones Tariff 600, I. C. C. 3526. The adjustment sought by Mr. Byars was made effective to Southwestern and Western Trunk Line points on August 6, 1942. In other words, the carriers provided for the application of the wheat flour rates on peanut flour.

By Mr. Barron:

Q. Have you anything further to say about this testimony of the Southwestern shippers?

A. I cannot think of anything further at the moment.

Com. Splawn: Do I understand now, Mr. Barron, that you are going to pass to a new topic?

Mr. Barron: Sir?

Com. Splawn: Do I understand you are going to pass to a new topic?

Mr. Barron: If you will permit us, we will finish within three minutes.

Com. Splawn: Very well. Proceed.

By Mr. Barron:

Q. Mr. Stanage, you are in charge of the Traffic Department of the Frisco Railroad, are you not?

A. Yes, sir.

Q. Do you at various intervals confer with your industrial agents as to the location of industries on the Frisco Railroad?

A. Yes, sir. Matters are coming up constantly.

Q. Is it one of your duties when a manufacturing plant is in contemplation, to give consideration to the establish-
[fol. 4194] ment of freight rates?

A. If they need them, yes, sir. In other words, we are in constant contact with our industrial representatives and whenever there is a need for a rate adjustment, it is generally our practice to work up some data on the adjustment, or if we need some additional information we have one of our representatives contact the applicant, like we did in the case of the Claremore industry, and take care of his needs.

Q. How many years have you been in a supervisory capacity with the Frisco Railroad in the Traffic Department?

A. About 20 years.

Q. In that 20 years do you ever know of any instance where an industry was not located on the Frisco Railroad because of the freight rate adjustment?

A. No, sir, I do not.

Mr. Barron: I offer in evidence Exhibits Nos. 185 and 186, and ask that they be received.

Com. Splawn: Without objection, they may be received.

(Exhibits 185 and 186, Witness Stanage, received in evidence.)

Mr. Barron: You may inquire.

Com. Splawn: Is there any cross-examination?

Mr. Bee: Yes. Do you want me to proceed with cross-examination now or wait until after lunch?

[fol. 4195] Com. Splawn: Will there be very much cross-examination?

Mr. Bee: Yes. Quite a bit. It is 12:30 now.

Com. Splawn: Very well, we will defer cross-examination until after recess. Off the record.

(Discussion outside the record.)

Com. Splawn: We will recess until 2 o'clock P. M.

(At 12:30 o'clock P. M. recess taken to 2 o'clock P. M.)

[fol. 4196] Afternoon Session

The hearing was resumed, pursuant to recess.

2 o'clock P. M.

Chairman Aitchison: Shall we proceed.
Mr. Gwathmey: Mr. Stanage.

B. H. Stanage resumed:

Chairman Aitchison: Mr. Gwathmey, I am not certain that I correctly understood your answer this morning, so I would like to ask you again, for whom Mr. Tassin is testifying. There seems to have been a little misunderstanding.

Mr. Gwathmey: I said, if the Commission please, for the Southern Railway System Lines.

Chairman Aitchison: I thought you said "Southern District."

Mr. Gwathmey: No, your Honor—Southern Railway System Lines. I hope I have made that clear.

Chairman Aitchison: Proceed with the cross-examination.

Cross-examination.

By Mr. Bee:

Q. Mr. Stanage, on sheet 1, or page 1, of your statement, you make reference to a new industry established at Claremore, Oklahoma, in the recent past.

A. Yes.

Q. How many employees are there, employed by that industry at the present time, if you know?

[fol. 4197] A. I do not know.

Q. Are you advised as to whether or not that industry is one that requires a very heavy use of electricity, and therefore had to be established at a point where electric energy was available?

A. No, sir.

Q. And that that was its reason for establishing at Claremore.

A. No, sir.

Q. Do you know how much traffic that industry gives your line?

A. Oh, they are a new industry, and I do not have their figures, but they are going to have quite a few cars, however.

Q. Now, on page 2 of your statement you refer to several industries that have been built in the South and Southwest in the last decade. You refer, for example, to carbon black.

A. Yes.

Q. Is there any available source of carbon black that you know of, excepting the Southwest?

A. Not according to the United States Bureau of Mines, no, sir, although Commissioner Spawn mentioned a possible source in West Virginia, I believe.

Com. Splawn: I was asking if there was not some considerable use of it there, but I am not sure that there is [fol. 4198] any manufacture of it there. There may be; I do not know.

The Witness: I do not know.

By Mr. Bee:

Q. The production of carbon black requires the burning of a considerable volume of natural gas, does it not?

A. Yes.

Q. That is the way it is produced.

A. Yes, sir.

Q. And it can only be produced, therefore, in those territories where there is a surplus, or a large production of natural gas; that is correct, is it not?

A. That is my understanding.

Q. Now, also, with respect to asphalt: Where is asphalt produced in the United States, Mr. Stanage?

A. Well, it is produced in two ways; one, as the result of refining crude petroleum oil; and then there is also a production of asphalt in what I will call its natural state, with rock and other materials, where it is mined, like at Dougherty, Oklahoma, and Ada, Oklahoma, and also at certain points in Kentucky. Those are the only places that I know of, just at the moment.

Q. Also, in the vicinity of San Antonio, Texas, there is a very large natural asphalt plant, is there not?

A. There is a town named Uvalde there, as I recall it.

Q. Yes, in the vicinity of San Antonio.

[fol. 4199] A. Yes, sir.

Q. So that asphalt may come either from refining oil, or petroleum, at a refining plant, as you have testified, or else come from a natural source.

A. Those are the only sources that I know of, yes, sir.

Q. Now, referring to sulphuric acid: That is a product of sulphur, is it not?

A. Yes.

Q. Where is the production of sulphur in the United States?

A. Along the Texas and Louisiana Gulf Coast.

Q. Now you have also referred here to soda ash. Where is the production of soda ash?

Chairman Aitchison: Is not sulphur produced as a by-product of the coking process?

Mr. Bee: I do not think so.

Mr. J. R. Bell: It is mined also, Mr. Commissioner. There are a lot of mines over the country.

By Mr. Bee:

Q. 90 per cent of all of the sulphur produced in the United States, is supposed to be produced in the States of Texas and Louisiana; that is correct, is it not, Mr. Stanage?

A. Oh, there is a very large volume produced there, of course, yes, sir, but I know also that there is production at Copperhill, Tennessee, and other places, in connection with the manufacturing processes that I have mentioned.

[fol. 4200] Q. Now referring again to soda ash. That was the last thing I asked you about. Where is soda ash produced?

A. Soda ash is produced at Baton Rouge and Lake Charles, Louisiana; Corpus Christi, Texas; and also in Michigan and Ohio.

Q. It is generally produced along some seacoast, or some waterway, is it not?

A. I understand that its base is salt.

Q. Its base is salt.

A. Yes, sir.

Q. It would be natural for carbon black, soda ash, asphalt, and sulphuric acid to be produced in the Southwest, would it not?

A. Wherever those commodities that I have mentioned are present.

Q. Now, you say that there have been some battery plants established in the Southwest.

A. Yes.

Q. Do you know of any of those plants that is operating at the present time, Mr. Stanage?

A. Well, I have not checked up on that situation just lately, just exactly, but I know that there is a substantial manufacturer located at Dallas, Texas.

Q. Well, do you not know that all of the battery plants down there had to close, due to competition, and went to [fol. 4201] points that were outside of the Southwest, because of the low rate adjustment on batteries into the Southwest from without the Southwest.

A. I never heard of that, no, sir.

Q. Have you looked into the rate levels, on batteries into the Southwest, and within the Southwest, Mr. Stanage?

A. Not within the last 90 days.

Q. Pardon me?

A. I say, I have not looked into that matter within the last 90 days.

Q. Where did you get your theory, or your idea, that anybody in the Southwest has asked or will ask for the application of the Official Classification Territory rates within the Southwest?

A. Exhibit No. 104, introduced in this proceeding by Witness Fredericks, led me to that conclusion, and also the remarks of the Witness Hart, of Atlanta, Georgia.

Q. Does Mr. Hart live in the Southwest?

A. He did not say so.

Q. I was asking you about the Southwest.

A. Well, I say, there was the exhibit, No. 104, introduced by Mr. Fredericks, and then I also heard it stated by some shipping interests that that is what they were going to contend for.

Q. But there was no contention of that kind made by any [fol. 4202] witness for the Southwest, however, was there,—except the comparison of what Official Classification Territory rates would do?

A. That is my recollection.

Q. Now on page 3 of your statement, you made the statement that if Official Classification Territory rates were applied to and within the Southwest, it would result in lower rates for manufacturers, relatively and comparatively, located without the Southwest, than those located within the Southwest. Is that correct?

A. Yes, sir, and that is what I have shown here on pages 89 to 93 of Exhibit No. 63, dealing with class rates.

Q. Yes. Now, let us assume that there is a large company located in Wichita Falls, Texas, and the product thereof is going to Miami, Oklahoma, both points being within the Southwestern adjustment. Would your statement hold true there?

A. I would not be able to say; I do not know, unless I check it up.

Q. Do you not know that the rate level in the Southwest, if it were put in on the Zone 3 adjustment, would be reduced to the Official level, but that there would be no such reduction, from the Official level, into Miami?

A. I do not know that as a general proposition, no, sir, because I have not checked that.

[fol. 4203] Q. You know how the rates are made at the present time, under the decision of the Commission in Docket 13535, do you not?

A. Yes, sir; under the 21st Supplemental Report, on the laminated basis.

Q. Yes; and that uses 110 per cent, or approximately that, of the Official basis as the key rate, does it not, for the entire distance?

A. Yes, sir.

Q. And then it plusses that rate by the higher level within the territory in which the traffic is moving?

A. In the different zones.

Q. Yes.

A. Yes, sir.

Q. Assuming that the Southwest is 156 per cent of that level, that entire excess is applied for the mileage within the Southwest, is it not?

A. Yes, sir.

Q. And in the case of a shipment from Wichita Falls, Texas, to Miami, Oklahoma, the excess would be applied for the entire distance, would it not?

A. That is correct.

Q. Whereas, from Boston, Massachusetts, to Miami, Oklahoma, you would use the base rate to Pacific, Missouri, would you not?

[fol. 4204] A. Yes.

Q. In figuring the rate to Miami?

A. If you were applying the Official scale, you would apply it all the way through, for the mileage, without any lamination.

Chairman Aitchison: When you refer to the base rate, do you mean, the basic scale under 13535?

Mr. Bee: Yes.

The Witness: That is correct.

Chairman Aitchison: Following the 3rd Supplemental Report, the question came up, and there has been considerable confusion about it. Just where does the basic scale apply?

The Witness: It applies as a foundation for the lamination.

Chairman Aitchison: Well, it does not have any application itself, except from Official Territory to—where?

The Witness: The Southwest.

Mr. Barron: I do not think you understood the Chairman. I think that what the Chairman wants to find out from you is whether or not the basic scale itself is used in determining the rates, or whether you have to apply something else to it.

Chairman Aitchison: Yes.

The Witness: You have to apply something else to it.

Chairman Aitchison: In all cases?

[fol. 4205] The Witness: Yes.

Chairman Aitchison: I thought you answered Mr. Bee a moment ago here, that the basic scale would be applied, in the first illustration he gave.

Mr. Bee: The basic scale would be applied first all the way; and then there would be added to the basic scale, the arbitraries for the territories which the traffic is traveling through.

Mr. Barron: Well now that is what is confusing, because you say you would apply the basic scale. You would use the basic scale for the through distance, would you not?

Mr. Bee: You may use either term you want. You would apply the basic scale for the entire distance, and then plus it. That is correct, is it not, Mr. Stanage?

The Witness: Yes, sir, that is correct. You use it as the underlying basis, as I call it.

By Mr. Bee:

Q. And you have to put it down on a piece of paper, to start with.

A. Yes.

Q. And you would use the basic scale all the way from Boston, Massachusetts, to Miami, Oklahoma,—is that correct?

A. Yes.

Chairman Aitchison: As the first factor?

Mr. Bee: Yes.

By Mr. Bee:

Q. That is correct, is it not?

[fol. 4206] A. Yes, sir.

Q. And then you plus it with the Zone-1 differential, from St. Louis to Pacific, Missouri, do you not?

A. Yes.

Q. And then the Zone-2 differential, from Pacific, Missouri, to Springfield, Missouri?

A. Yes, sir.

Q. Or a little south thereof?

A. Yes.

Q. And the Zone-3 differential, from that point to Miami?

A. Yes, sir.

Q. Which is just a very short distance, is it not?

A. Right.

Q. Therefore you would only take off, by the application of the Official scale from Boston to Miami, the amount of the plussing over the basic scale, plus the difference in the basic scale. That is correct, is it not?

A. There would be a lesser reduction, I will admit, yes, sir, from Boston to Miami than there would be to Wichita Falls.

Q. Yes. Now some witness testified the other day that he found belts made at Yoakum, Texas, in a store in the East. Will you advise the Commission as to the result of the application of the Official scale from the location of the Hickock Company, the other competitive belt manu-

[fol. 4207] facturing company to Miami, Oklahoma, as con-

trasted with the application of the Official scale from Yoakum, Texas, to Miami, Oklahoma?

Mr. Barron: Well now, just a moment. I have no objection to Mr. Stanage doing that, if he knows; but I do not think you ought to ask him a question of that sort.

A. Well, I can settle the difficulty by answering that I have not figured that out.

Mr. Bee: Very well; we will put that in, on our own rebuttal, then.

Mr. Barron: I would suggest that that would be the better way.

Mr. Bee: All right.

Mr. Warren Waggner: Mr. Bee, would you mind if I interrupted at this point just long enough to ask Mr. Stanage one or two questions with respect to the application of the basic scale? I am not altogether sure that the record is correct, as it stands.

Mr. Bee: Go right ahead.

By Mr. Waggner:

Q. Mr. Stanage, is this not the proper method of applying the scale: In the first place, you apply the basic scale through.

A. Yes.

Q. In other words, from the particular eastern point, whatever it may happen to be, to Miami.

[fol. 4208] A. Yes, sir, for the distance.

Q. And then you apply the Zone-1 arbitrary from St. Louis through to Miami.

A. Yes, sir, that is right.

Q. And then you go to the border of Zone-2, and apply the Zone-2 arbitrary through to final destination.

A. Yes.

Q. And then Zone-3.

A. Yes.

Q. So that it is a lamination of three or four scales.

Q. That is, one on top of the other.

A. Yes, sir, that is correct. In other words, you add the additional distance. We did not do that before.

By Mr. Bee:

Q. They are worked out in tables, and we apply them by using them only once.

A. Yes, sir.

Q. But Mr. Waggner is correct, as to the origin.

A. Yes.

Q. Going back to the origin point.

A. Yes.

Q. Now, I will ask you to turn to page 4, please, where you say that the key rates would be higher if the scale were applied.

A. Yes.

[fol. 4209] Q. Will you tell me what key rates would be higher?

A. The key rates that were prescribed by the Commission in the 21st Supplemental Report. Compare those with the application of the scale.

Q. Do you mean by that that if you use the Official Classification rates, Official Territory rates, from points of origin in Official Territory, Central Freight Association Territory or Trunk Line Territory, to points in the Southwest, the rates would be higher than if you apply, or use, the present key rates?

A. No, sir, I do not. The data relating to the key rates, as shown on pages 128 to 131, relate to the key rates prescribed by the Commission in the 21st Supplemental Report, compared with the mileage basis.

Q. Yes, sir.

A. In lieu of the key rates, had they checked the rates out on the basis of mileage application, we compare the mileage scale basis with the specifically published key rates of the Commission, to show the fact that some were higher, and some were lower.

Q. Did you apply them to every station to which the key rates apply, or did you apply them only to the key stations?

A. We applied them to the key stations.

Q. And you know that they apply as the rate from the key station back near to destination, to the next key rate—or [fol. 4210] the next key point, do you not?

A. Well, there is a group application, a small destination group application, if that is what you mean.

Q. Going south on your line, you have a key rate at the town of Chandler, or Bristow, that is correct, is it not?

A. I have not checked that; but may I say, Mr. Bee, that we are merely comparing the rates to the key points proper, and not to the key point group.

Q. Yes, but I am trying to show you that the result is different than if you do what the Commission did.

A. Well, it would not be different, Mr. Bee, to the key points proper. It would be to a point east of the key point, it would vary, to a point east of the key point.

Q. Well now, let us follow that out a little bit, and see just what the Commission did. The Commission made a key rate from St. Louis, as an example, to Bristow, a point on your line; that is correct, is it not?

A. I have not checked it.

Q. Well, let us just assume that that is a fact, for the purpose of my question.

A. All right.

Q. And then the Commission also made a key rate to Oklahoma City.

A. Yes, sir.

Q. Now, if they made no key rate between Bristow and [fol. 4211] Oklahoma City, the Oklahoma City key rate would apply at all intermediate stations, Bristow to Oklahoma City, would it not?

A. Yes.

Q. So that you have taken only the Oklahoma City rate, and compared it, without checking each station, Bristow to Oklahoma City, and seeing the effect of that; that is correct, is it not?

A. We did not intend to show that latter effect. We intended to show to the Commission the fact that a great many of their key rates were not on the mileage basis, they were figured lower than the actual mileage basis would figure; and we were dealing with the points shown on the particular page of my exhibit dealing with those specific key points proper, and not the surrounding group points.

Q. But that was done, was it not, Mr. Stanage, because the rates did apply actually to much shorter distances, and the Commission was trying to secure the average rate for the group, and not the key point rates.

A. I do not know what may have actuated the Commission to state the key rates as they did, of course.

Q. Now you refer on page 5 to the Commission prescribing 26-column arbitraries in the bridge scale. Are 26-column arbitraries applied on all traffic from Official Territory into the bridge territory, Mr. Stanage?

[fol. 4212] A. Well, of course, I do not know that there would be shipments on every one of those 26-column ratings.

Q. Do you not know that, as a matter of fact, the carriers have refused to apply the arbitraries on the column rates inbound, that they do apply eastbound, but not westbound.

A. Do you mean, the application to the South versus Official Territory?

Q. I mean into the Arkansas or Oklahoma bridge territory, that the carriers have declined and refused to publish tariffs using the 26-column rates and apply them to commodities——

Mr. Barron: Do you mean, inbound?

Mr. Bee: Inbound.

The Witness: Inbound?

Mr. Bee: Yes.

A. That is true, but not into the South.

By Mr. Bee:

Q. Now, Mr. Stanage, I would like to go to your Exhibit No. 186 first, if you please, sir.

A. All right.

Q. You have put down here by notes, certain new industries that have been established. Where did you secure that information?

A. We sent a questionnaire to the Traffic Departments of the principal Southwestern lines.

Q. What did that questionnaire say?

[fol. 4213] A. We asked them in that questionnaire to let us have by years the industries located along their lines during the decade ending with 1941.

Q. May I ask, Mr. Stanage, that you turn to page 11 of the exhibit, and look at the 5th item and the 72nd item on that page, and tell me what company notified you of those industries having been established in the same year.

Chairman Aitchison: The 5th item, and—what else?

Mr. Bee: The 5th and 72nd.

Mr. Barron: The 5th and 7th?

Mr. Bee: No, the 5th and 72nd.

By Mr. Bee:

Q. You notice that it is the same company exactly; reported twice, is it not?

Mr. Barron: That is very possible.

A. Yes, Mr. Bee, that is correct. Our own industrial people gave me that information, and I see that, in copying it, they copied it twice. It is on there once already.

By Mr. Bee:

Q. Now, if a concern located at a point in the Southwest in the year 1940, and another concern bought the first concern out in the year 1941, occupying the same facilities, identically and exactly, but merely changing the name, would you carry that second concern as a new industry, established in 1941, Mr. Stanage?

A. I do not know just offhand how they would classify a situation of that sort. As I stated before, I merely asked [fol. 4214] for the industries that were located in that decade, and as to a situation of that kind, I would not be able to tell you whether they reported them differently or not,—I mean, under the old name, or under the new name.

Mr. Barron: I will say that we did not intend to duplicate anything, and if there are any situations of that sort, they should be stricken out. There are none, however, that I know of.

By Mr. Bee:

Q. Do you consider Kansas City, St. Louis and St. James, Missouri, as being located in the Southwest?

A. Yes.

Q. You do?

A. Well, St. Louis and Kansas City are in the Southwest on business to and from the Southwest, and St. James is just 100 miles from St. Louis, on the Frisco Railway. They are in the Southwest, yes, sir, certainly.

Q. Does the Southwestern Tariff Bureau have jurisdiction over the rates between St. Louis and Kansas City, Missouri?

A. No, sir, it does not, but that does not mean that Kansas City is not in the Southwest on shipments to Dallas, Texas, or Tulsa or Muskogee, Oklahoma, and so forth, in the case of shipping in and out—industries shipping in and out.

Q. Well, what about Western Trunk Line Territory?

A. What do you mean?

Q. Where is that?

[fol. 4215] A. Well, as to Western Trunk Line Territory, they would handle shipments east of there, in Western Trunk Line Territory. They are right on the border, from a rate standpoint.

Q. Here is the Yellow Transit Company——

Com. Splawn: Is it your thought, Mr. Stanage, that Kansas City and St. Louis should be put in Zone 3?

The Witness: Yes, sir, I think they should.

By Mr. Bee:

Q. I notice on page 5, in the year 1936, that the Yellow Transit Company established a warehouse at Kansas City, Missouri. Would you consider that company, a competing transportation company, operating only by motor vehicle, as an industry located in the Southwest, advantageous to the Frisco Railway?

A. Yes, sir, because they would get inbound shipments, possibly, of soda products, baking soda, and distribute it, some by rail and some by truck. We have relations with warehouse companies that are owned by truck lines at many other points, like Tulsa, and Oklahoma City, Oklahoma.

Q. Did you ever know of the Yellow Transit Company delivering to your company a shipment at Kansas City, Missouri, destined to any point in the Southwest?

A. No, sir, I do not know of anything specifically just offhand, but I think that they have done so.

Q. You would consider St. Joseph, Missouri, as being also in the Southwest, would you?

[fol. 4216] A. Well, no, sir, I would not. That is just a little bit too far north, I would say.

Q. 60-odd miles——

A. (Continuing:) Although it is in the Kansas City group, when it comes to rates.

Q. 60-odd miles, or 50-odd miles north of Kansas City.

A. Yes.

Q. But you have included all of those points in your exhibit here, have you not?

A. Well, there might be an item or two there.

Q. Yes.

A. Of course, you understand, Mr. Bee, that we could have gotten more than these 770 industries. We just got those concerning which we had records readily available, showing the data. We did not comb the industries with a

fine tooth comb, to make certain we got every one of them. We possibly should remove one, like St. Joseph. But we had to make this up with the data at hand, merely trying to show the general trend of the industries located there.

Q. Did I correctly understand you a moment ago to say that you sent that questionnaire out to all of the lines?

A. I said, it went to the principal Southwestern lines, and each line had to refer to its old records, beginning back in 1932, and some of them did not have those old records as readily available as others did.

[fol. 4217] Q. Do you not know, Mr. Stanage, that each one of those lines telegraphed its local agents to send them in the information?

A. No.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Continue.

By Mr. Bee:

Q. Now, Mr. Stanage, I note on page 2 here, you show that you put some special rates in on tincans.

Mr. Barron: What exhibit?

Mr. Bee: 185.

A. Yes.

By Mr. Bee:

Q. As a matter of fact, is that not a rate that was put in for account of the Government, in order to foster the recovery of tin from old tincans, Mr. Stanage?

A. That was one of the reasons.

Q. It was not for the benefit of any industry in the Southwest, but it was to try and get the tincans reclaimed; that is correct, is it not?

A. Well, it has been a benefit to the scrap iron industry, to the people a part of whose business it is to reclaim tincans. The scrap iron people have been doing that for many years. I do not know just to what extent they are doing that at the present time.

Q. But you know, do you not, that it was only by reason of [fol. 4218] the war necessity for the cans.

A. No.

Q. All right. Now, referring to page 10, I want to direct your attention to the last item there, establishment of a rate on iron ore from Mill Creek, Oklahoma, to St. Louis and East St. Louis: How long did it take to get the Frisco Railway to establish that rate, Mr. Stanage, if you know?

A. I do not know exactly, although it took several months. But here is what happened: We were asked to establish a rate on iron ore from Mill Creek to St. Louis; and you and I had a conference with the applicant, and decided upon a rate of $2.75 per gross ton. We had that rate currently in effect from Texarkana, Arkansas, and East Texas iron ore producing points, to East St. Louis. We decided upon the rate of $2.75 per gross ton, and that seemed satisfactory to the applicant. He had leases on certain iron ore lands in the vicinity of Mill Creek, but had never established arrangements for extracting the iron ore. He came up to St. Louis and discussed the matter with the steel people on the east side, in Illinois, and seemed satisfied with the rate of $2.75; but after he had worked out his costs, he then notified us that he could not ship on the rate of $2.75, and he wanted a rate, instead, of $2.50. The steel people who were going to buy the iron ore called attention to a rate published from an iron ore shipping point in Wisconsin [fol. 4219] on the North Western Railway, as I recall it, of $2.50 per gross ton; and, using that as a basis, the steel people would not pay him on a higher rate level. Therefore we took another look at the proposition. We wanted to help that man out; we wanted to develop that iron ore, if it could be done; so we endeavored to have a rate of $2.50 per gross ton approved in the Southwestern Freight Bureau, without causing a readjustment from East Texas. Many of the lines thought that it was unwise. However, in order to assist this man in the development of this iron ore, the Frisco Railway announced its intention to establish the rate, and it was published effective—well, about 30 days ago.

By Mr. Barron:

Q. You gave public notice, did you not?

A. Yes, sir. In the meantime, however, the shipper, as I understand it, has been having difficulties on account of priorities, in getting his machinery, so that he has not, up to the present moment, as far as I have been able to determine, shipped any iron ore under that rate.

By Mr. Bee:

Q. Now, as a matter of fact, Mr. Stanage, the rate that he was having to compete with was a rate of $2.25, and not a $2.50 rate, applying from the Minnesota iron range, and not from Wisconsin, and that rate was called to your attention long before the matter was referred to the Corporation Commission. At first your company refused to [fol. 4220] make any reduction for him whatever, is that not true? You refused to make any reduction for him whatever until he had secured a contract from the steel people, indicating that they would use his ore.

A. No, Mr. Bee. That is not correct. I think you are a little confused. You and I conferred with this gentleman, and I suggested a rate of $2.75, for the reason stated, and he accepted that, in your presence. I had that rate approved, and later on, as I stated, he insisted upon a lower rate for the reason indicated. I stand on the facts, as I have stated them.

Q. But does not the correspondence show, Mr. Stanage, that he insisted on a rate of $2.25, but you and I agreed that we would test out the rate of $2.75, and that if it became necessary, your company would put in something lower? Now, is that not correct?

A. I am sorry, Mr. Bee, but I would prefer to let my statement stand as it now is in the record.

Q. All right. However, I take it that you are also willing to let the correspondence stand—are you not?

Chairman Aitchison: That is not before us at this time.

Mr. Bee: All right.

By Mr. Bee:

Q. Now, Mr. Stanage, with respect to Mr. Murray's testimony, relative to forest products. Mr. Murray's state- [fol. 4221] ment, as you read it, I think was that the great majority of forest products is going out, either unmanufactured or manufactured to a small degree. Now is that statement correct or incorrect, with respect to the movement of forest products from Arkansas?

A. As I read his actual words, shown in the record at page 1986, I make the statement that his statement is incorrect, the words being "In other words, we cannot finish a lot of our own wood products in Arkansas"—that is I, of course,

am adding the words "in Arkansas"; and I point out the types of manufactured wood products that I have developed, and know about, and am in a position to inform the Commission about, as to the shipping point, and the rates, both the inbound and outbound rates.

Q. Now, do you establish any rates on tight barrels from Arkansas out?

A. No, sir. The staves that he talks about go up to Joplin, Missouri, where there is a cooperage plant.

Q. All right. Was not one of his points the fact that Arkansas could not ship the barrels, and had to ship the staves?

A. I do not recall, in reading his testimony, that any mention was made by him of cooperage.

Q. Well, you would call the staves a partially manufactured product, would you not?

[fol. 4222] A. Yes.

Q. With respect to the entire barrel, or the final commodity?

A. Yes, sir.

Q. All right.

A. But I might add, that the staves move from the Arkansas manufacturer, and are made into cooperage just across the river.

Q. They also move to St. Louis, do they not?

A. Yes, sir, or Peoria, Illinois, or Cleveland, Ohio.

Mr. Bee: That is all. Now, Mr. Barron, I believe that you were going to put in a corrected exhibit, were you not, relative to some of the matters that Mr. Tanner asked about at the last hearing?

Mr. Barron: Yes. If the Commission please, unfortunately, I only have about a dozen copies here of the corrected exhibit, but I expect the others in any time, either this afternoon, or tomorrow. These are the matters that Mr. Bee, or Mr. Tanner called attention to. With your permission, I would like to submit it at this time, and when the other copies get in, I will see that all parties of record are furnished with copies.

Chairman Aitchison: You may distribute the exhibit, as far as you have copies available at this time. Without objection, Exhibit 187 is received.

(Exhibit 187, Witness Stanage, received in evidence.)

[fol. 4223] Chairman Aitchison: Is there further cross-examination?

Mr. Dyer? Yes.

By Mr. Dyer:

Q. Mr. Stanage, in your direct testimony you mentioned and stressed the willingness of the Western lines and the Southwestern lines, specifically, to meet the needs for rates necessary for new industry.

A. Yes.

Q. I believe that in a general way at least is a substantially correct statement of your testimony, is it not?

A. Yes.

Q. Your statement there with respect to new industry would also apply to the needs of existing industry, would it not?

A. Yes, sir, absolutely.

Q. Now furthermore, in your direct testimony you made this statement, that you have done everything in your power to assist in the development of industry.

A. Yes.

Q. I would like to have you tell us, and tell the Commission, Mr. Stanage, just what you mean by the word "power"?

A. Well, what I meant by that was this: Anything that the Frisco Railway could do, either by itself or its collaboration with its connections, to establish lawful rates which would be beneficial to its industries in permitting them to expand, develop and grow, reach out for new markets, and bring added business to the Frisco Railway and its [fol. 4224] connections. We stand ready and willing to do anything of that sort at any time—if the facts justify it, of course.

Q. To the extent that you can do so, to the extent you are able to do so, of course.

A. Yes.

Q. But did you have in mind, when you used the word "power", Mr. Stanage, the restrictions that might exist in some outstanding orders of the Interstate Commerce Commission relative to the publication of rates to and from points in restricted Kansas territory?

A. Oh, yes, sir, because we have to comply with the existing orders of the Commission. I mean by that, we

would take them into account in our efforts to establish new industries, and if the orders needed correction, and we thought that the matter ought to be presented to the Commission, in a petition for correction, we would do so,—although those situations have been very few.

Q. Have you found, Mr. Stanage, in the publication of rates to and from Wichita, that there have been numerous instances where Finding 27 has stood in your way?

A. Oh, it has temporarily held up the publication of rates,—and by that I mean that we have to comply with the understanding that was reached with the Commission, about filing petitions with the Commission, or notifying it of our intention to establish certain rates and permitting the [fol. 4225] opposition, if any, to voice its views, before we establish the rates.

Q. You know of the Coleman people of Wichita, Kansas, do you not?

A. Yes.

Q. Has that company ever appeared before you, Mr. Stanage, and asked for a readjustment in its rates, in the last three or four years, in connection with which you have found some difficulty in extending the rate that was proposed to be published, to other points in Western Trunk Line Territory, to include Wichita,—which is also a point in Western Trunk Line Territory?

A. Why, I do recall Mr. Coleman having appeared before certain of our committees, yes, sir, but I am not able just at the moment to recall the status of the subject. However, we did have some situations where, as I recall it, the Southwestern roads individually were not in a position without some assistance from the Western Trunk Lines, to correct the situation. Of course you probably have it in mind much better, and much more in detail, as to the actual status of it, than I have; but that is the only situation that I am now able to recall, and I still cannot recall the details of it.

Q. But you do know, do you not, Mr. Stanage, that those rates were published to all of the territory—to all of West- [fol. 4226] ern Trunk Line Territory, except restricted Western Trunk Line Territory? That is correct, is it not?

A. Why, I think that is correct, yes, sir, although I am just speaking from memory now, you understand, and assuming that you have the correct situation in mind, as indicated by your question. I know that there was some situation that came up, in which we tried to be of assistance,

and where we were only partially successful; but as I told you before, I am not able just offhand here to give you the detail of that.

Q. And even though the Western Trunk Lines were willing, and wished, to extend those rates into Wichita, they were not able to do so because of the result of Finding 27; that is correct, is it not?

A. That is my recollection, yes, sir—or else get relief from the finding. There was some reason why we could not do that, but I do not remember the details now.

Q. Well, these particular cases that I now have in mind resulted in I. & S. Docket No. 4597, known as the Heating Apparatus Case; and I. & S. 4818 and I. & S. 4819, known as the Stoves, Furnaces and Stove Parts Cases. Now those rates were later extended to include Wichita, were they not?

Mr. Bee: Just a moment. I object to the question, if the Commission please. This is not proper cross-examination of Mr. Stanage. This is just a rehash of old Finding 27 in [fol. 4227] Docket 13535,—concerning which the Commission has just issued a new order, by the way, on the 9th day of this month. It is not proper cross examination of Mr. Stanage. Every time Mr. Dyer gets into any case, he always tries to bring in these other cases, just as he is trying to bring them in here. I am perfectly willing to meet him on the proposition at any time, in any case, but I submit, that he is just taking up a lot of time and building up a record here unnecessarily.

Mr. Dyer: May I reply to Mr. Bee's objection, just briefly, if the Commission please? Mr. Stanage, in his direct testimony, stated——

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Back on the record. The objection is sustained to that question as it stands.

Mr. Dyer: Pardon me, your Honor, but may I ask the Reporter to read the question.

(Question read.)

Chairman Aitchison: The objection is sustained. However, you may ask a question along that line which is proper cross examination, if you desire to do so.

Mr. Dyer: Thank you.

By Mr. Dyer:

Q. Mr. Stanage, in view of your statement that the Western lines did everything in their power to assist in the de-
[fol. 4228] velopment of industry, as the result of the action of the Commission, you did extend those rates—that is the Western Lines did extend those rates to include Wichita; is that correct?

A. Why, I think that they did, yes, sir, although I do not have a very clear recollection of all of the details of that situation just at the present moment.

Q. Mr. Stanage, has your company individually, and the Western lines collectively, been faced with similar requests, and been faced, as the result, with similar problems?

Mr. Barron: Just a moment, please. That question is not clear to me. You say "similar requests."

Mr. Dyer: Yes.

Mr. Barron: Similar to what? The Coleman situation?

Mr. Dyer: Yes.

Chairman Aitchison: Do you understand the question?

Mr. Barron: I do not.

The Witness: I think so.

Chairman Aitchison: Answer.

By Mr. Barron:

Q. Mr. Stanage, when Mr. Dyer refers to similar requests, do you have in mind that Mr. Coleman was asking for certain rates on certain commodities?

A. Yes.

Q. And Mr. Dyer is now asking you if you have had similar requests.

A. Yes, sir; I understand the question; and my answer is [fol. 4229] that I do not recall any,—that is, I do not recall any request that was an exact parallel to that of Mr. Coleman. It is my recollection that the justification for his rate was not a ground for relief under Finding 27, based on the permissive orders of the Commission in the 14th and 16th Supplemental Orders in Docket 13535; and that was the reason, if I recall correctly, that the carriers were unwilling to initiate the type of petition that you sought to have them initiate. As I say, I do not recall any similar cases with other shippers. We do have cases, of course, where we seek to meet truck competition, potential or actual, with truck-

compelled rates, and where we seek to meet water competition with water-compelled rates, where we do secure relief from Finding 27.

Q. In order to serve industry in the restricted Kansas territory, and the Southwest, the Southwestern lines and the Western Trunk Lines have in some instances taken the avenue of relief open to them under the 14th and 16th Supplemental Reports in 13535; that is correct, is it not?

A. Yes, sir, that is true, where we are meeting actual truck competition, or potential truck competition,—which we can verify as potential.

Q. In other words, then, they have filed the applications that are required under the 14th and 16th Supplemental Reports. You have had cases like that?

[fol. 4230] A. Yes.

Q. Do you know whether or not there has been a greater number of those applications filed in connection with traffic moving to and from Southwestern Territory, than Western Trunk Line Territory?

A. Oh, I never have totaled them up, but I believe that there are more in the Southwest than there are in the Western Trunk Line section of Kansas.

Mr. Dyer: I might state in that connection, if the Commission please, I think the Commission should take judicial notice of that fact.

Chairman Aitchison: Of what fact?

Mr. Dyer: Of the fact that there are some 400 or more notices filed in connection with rates to and from the Southwest, while the number filed in connection with traffic to and from Western Trunk Line Territory is very limited.

By Mr. Dyer:

Q. Is that not a fact, Mr. Stanage?

Mr. Barron: Well now, just a moment. Are you asking the witness a question, now?

Mr. Dyer: That was preliminary to the question I just asked.

Mr. Bee: Did you not just take such judicial notice in the order on the 9th of this month, in this case, specifically stating the very thing that the witness has stated?

Mr. Barron: That was a show-cause order, that you issued [fol. 4231] some time ago.

Chairman Aitchison: I do not understand. What pertinency does this have?

Mr. Bee: Mr. Dyer is just trying to rehash some old matters here.

Chairman Aitchison: Just a moment. What do you expect us to do, Mr. Dyer, that would be different from what we would otherwise do, as the result of this cross-examination?

Mr. Dyer: Why I do not know as to that, Mr. Chairman, but I do want to bring to the attention of the Commission——

Chairman Aitchison: It seems to me that the test is whether or not——

Mr. Dyer: Let me make a statement, please.

Chairman Aitchison: Let me finish.

Mr. Dyer: Pardon me.

Chairman Aitchison: The test is whether or not this cross-examination would have a tendency to cause a different decision than we would otherwise make in this case.

Mr. Dyer: The only reason that I bring this matter to the attention of the Commission is because of the last part of the last sentence in the order which the Commission issued on the 9th day of November, 1942, in I. C. C. Docket 13535, in the 28th Supplemental Report, where it said, "However, that nothing herein shall impair or affect the undue prejudice and preference provisions in such orders with respect [fol. 4232] to class rates as such." I believe that I expressed my fears at the time when I was on the witness stand earlier in this proceeding, with respect to what effect this order might have, regardless of the showing that Wichita might make in this case.

Chairman Aitchison: Well now, what has Mr. Stanage testified to here, that you are now cross-examining him about?

Mr. Dyer: The particular statement that he made was that the Western carriers had everything—or rather—pardon me—he made this statement, that the Western carriers did everything in their power to assist in the development of industry; and it is his use of the word "power" that I wanted to develop, as to just what he meant, just what he had in mind, in his use of the word "power." However, I think that is all I have, sir.

Mr. Smelker: I have one or two questions, if the Commission please.

Chairman Aitchison: Mr. Smelker.

By Mr. Smelker:

Q. Mr. Stanage, on page 1 of your statement, directly under the title "Industrial Organizations", you state that the Western carriers have maintained organizations whose duties are to furnish basic data concerning raw materials, coal and fuel oil, to prospective industries.

A. Yes, sir.

[fol. 4233] Q. And then a little later on, in the third paragraph, under that heading, you say that it has been the experience of these Departments that information of that character is generally secured and passed upon by parties seeking to locate an industrial plant on the Frisco Railway.

A. Yes.

Q. And then you say subsequently, "In some instances we receive requests for the establishment of new rates." Now, bearing that statement in mind, and also bearing in mind your recent testimony here concerning iron ore, what is your opinion on the question as to whether or not natural resources and reserves have any bearing on rate levels?

A. Oh, I think that they do have a bearing indirectly on rate levels, yes, sir, in this respect, that they naturally are a factor, taking the long-range view, of course, with respect to being a potential source for the procurement of revenue incident and necessary to the operation of a railroad.

By Chairman Aitchison:

Q. In other words, they give you an indication of the possible or even the probable traffic therefrom that may be developed for you in the future; is that right?

A. Yes, sir, that is my idea.

Mr. Smelker: That is all.

Chairman Aitchison: Is there anything further?

[fol. 4234] By Com. Alldredge:

Q. Mr. Stanage, it might also affect the development of your rate pattern,—meaning by that, the way you distribute the so-called rate burden on the different types of traffic which you transport; is that right?

A. Well, no, Mr. Commissioner, not exactly, because the pattern naturally would change as the needs of commerce would necessitate a change.

Q. Have rate patterns changed that rapidly?

A. Well, I have been in rate work for over 40 years, and they keep changing all the time, so that I cannot keep up with them.

Q. Oh, in individual situations, yes, but do your general rate patterns change rapidly?

A. Well, we have had the McGraham scale, in Official Territory, and then the Disque scale, and then 15879.

Q. But that only refers to one phase of your rate structure, does it not?

A. Pardon me?

Q. That only refers to one phase of your rate structure, does it not, and not your general pattern, covering the entire rate structure?

A. Well, I do not know of any pattern that covers the rate structure of the United States as a whole,—unless you mean that the treatment by the Interstate Commerce Commis- [fol. 4235] sion in the 1941 major rate cases, of the South, Western Trunk Line, and the Southwest, is designated by you as a pattern for the United States.

Mr. J. R. Bell: Let me ask one question.

Mr. Barron: Let the witness finish.

A. (Continuing:) We have had from 25 to 50 individual cases in the Southwest, prior and subsequent to the 13535 revision, and we have had innumerable decisions on commodities like cement, brick, livestock, grain and cotton.

By Com. Alldredge:

Q. If you had been assigned the task, as perhaps some traffic men were, when Mr. Hill was developing rates in the West, of designing a rate structure at that time for future operation, would you have taken into consideration the resources and possibilities of the area which you were considering, and designed your rate structure accordingly?

A. No, sir, not in the form that I understand you have in mind.

Q. If that was an agricultural country, then, and there was the possibility of developing agricultural products there in a large way, that would not have affected your thinking about the pattern of your rate structure?

A. Well, of course, in the first place, Mr. Commissioner, I do not know whether you and I have the same view of what a pattern of rate structure means; but in any event, natu-

[fol. 4236] rally, Mr. Hill had in mind that the territory that he saw, west of St. Paul, for the first 25 years, for example, would be an agricultural section, producing grain and livestock. Now, in establishing those rates back at that time, he had to be governed by the pattern of rate structure, or call it by whatever term you may want to use, that was in effect at that time in other territories. In other words, if you will study the history of the rates, you will find generally that when any traffic man, or any commission, undertakes to discuss a scale of rates on any given commodity, they have, as a background, the experience of years in the past.

Q. There has been a good deal of talk here, for example, that the rate pattern in Official Territory is different from what it is west of the Mississippi River.

A. Well, it is no different in many respects, Mr. Commissioner. It is different in this respect, however, that they have seven classes there, talking about class rates, and we have ten classes in the West. Then it is also different in that we have fewer commodity rates. They have their seven classes so related that they will make a lot of commodity rates by exception, particularly 6th class,—85 per cent, 83.5 per cent, and so forth; whereas in the Southwest we have always followed the pattern of basing our rates on each one of the moving commodities, as commodity rates, such as on cotton, coal, lumber, livestock, and so forth. Then also, the composition of the traffic is different in both terri- [fol. 4237] tories.

Mr. Barron: If the Commission please, may I inquire for my own information if you mean by "pattern", a scale of rates that is made up of a preponderance of rates on manufactured articles, versus a scale of rates that is made up of rates on such commodities, we will say, as agricultural products, or natural resources? I am just a little bit confused, your Honor, as to exactly what you have in mind when you refer to a pattern.

Com. Alldredge: I am not thinking about scales of rates when I refer to a pattern, but I am thinking about the entire rate structure as it is designed to keep the so-called rate burden spread out among the different classes of traffic.

Mr. Barron: As reflected by the consist of traffic moving in the respective territories.

Chairman Aitchison: We have an excellent illustration of that in this record here, with respect to the fact that car-

riers which serve both Western and Mountain-Pacific groups have an entirely different system in the one than they have in the other, and yet they are common carriers in each group. There is no reason for it, of course. It just goes back historically.

Mr. Barron: May I inquire, your Honor, if there is any further cross examination of Mr. Stanage?

[fol. 4238] Chairman Aitchison: Is there any further cross examination of Mr. Stanage? (No response.) Apparently not.

Mr. Barron: I have some redirect, then.

Redirect examination.

By Mr. Barron:

Q. Mr. Stanage, you were asked in substance, as an illustration, when Mr. Hill was building his railroad, if you had the job of making those rates, would you look at the natural resources of the country. Now if you were projecting a railroad into the plains country of the Southwest, or in Western Trunk Line Territory, anticipating that somebody thought perhaps there would be an agricultural section there, would you fix your rates in v' w of the possibility of an agricultural development there, or would you fix your rates, in the first instance, to earn you a living, and then fix your rates on agriculture if and when it developed?

A. Oh, we would have to do the latter, yes, sir, because we could not live unless we did it that way.

Q. Taking your natural resources——

Chairman Aitchison: You do not believe in missionary work, then?

The Witness: Oh, yes, I do, Mr. Chairman, and I will give you an illustration of the missionary work that we do on the Frisco Railway. About 40 years ago the Frisco industrial man located a colony of Italians near Springdale, [fol. 4239] Arkansas, which is about 360 miles southwest of St. Louis, on the Frisco Railway, and an inland town. He started there the first grape culture in the Southwest. Now we provided some missionary rates on manure for those grapes from the Kansas City stockyards in gondola cars, of about $25 per car, and there was a movement down there of 300, 400 and 500 cars per year. We developed that grape industry, and along with that, an apple industry. Now that

was 40 years ago. About 25 years later the Welch Grape Juice Company built a plant down there to manufacture grape juice and grapelade, and things of that sort. Along with the apple development, we located three vinegar plants, one at Rogers, one at Springdale, and one at Marionville. Now we made those plants relatively low rates on their cooperage inbound, and on their apple waste clear up to St. Louis, to the preserving companies there, for the pectin in the apple waste. We did everything we could to develop that industry. Then with the advent of the trucks, the contract and the private haulers took most of that business away from us. Now, we are gradually getting it back. However, my point is that it takes years and years of development before you can ever begin to reap your reward, particularly when you are talking about agricultural or fruit development.

Chairman Aitchison: You had in mind at that time securing revenue enough to keep you going during that initial, [fol. 4240] pioneer period.

The Witness: Yes; we had to be patient.

Chairman Aitchison: But at the time you were encouraging this agricultural development, you did have the future in mind; and away out in the plains country, you would not expect the cattle to just come up to your siding even if no railroad had ever been built in there, would you?

The Witness: Well, Mr. Chairman, history shows that the so-called prairie line, or the line that is dependent upon agriculture and livestock for its livelihood, is not a prosperous line, because those commodities are seasonal commodities, and the development of towns as the result of agricultural and livestock development, takes a long, long time.

By Com. Alldredge:

Q. But you would not make just one rate at a time, would you, Mr. Stanage?

A. No.

Q. You would have to design the whole rate structure, would you not?

A. Yes, sir, we would do as Mr. Morrison stated; but you will recall that when Mr. Hill was building his road from St. Paul west, he hired a man who had come from the East somewhere, around Cleveland, and that man brought with him a tariff and a classification; and Mr. Hill, because he

had no other advice on the subject—I imagine that was the [fol. 4241] reason—adopted that classification and that rate structure because they were working in the Cleveland area.

Chairman Aitchison: Well, when he got out to the Pacific Coast, he knew more about it.

The Witness: Oh, yes.

Chairman Aitchison: The demand was, as the reports of this Commission will show, to put in a rate which would develop a lumber manufacturing business on the Pacific Coast, because there were good fir trees and cedar trees there.

The Witness: Yes.

Chairman Aitchison: That is right, is it not?

The Witness: Yes, sir, that is correct, and the Southwestern roads, *such as the Missouri Pacific, the Cotton* Belt, and the Frisco Railway, have done precisely the same thing, which resulted in the destruction, the cutting down of the trees in the forests, to produce a movement of lumber to the North and East. A line like the Cotton Belt served at that time a more densely wooded section than the Frisco Railway. We came down through the Ozark hills. There is very, very little of that movement left. It was virgin forest, in the days when the forests were down there, but now all of that timber has been moved out, and in lieu of the timber, there are small settlements in there, or even fair-sized settlements; but the big tonnage, and the big revenue from that forest products tonnage, has vanished.

[fol. 4242] Com. Alldredge: Well, I suppose, of course, that everybody knew that that was an industry that was operated very extensively, and therefore that the timber would inevitably disappear; that is correct, is it not?

The Witness: Why, yes, I would say so, but we cannot just live on what is produced on our lines. Roads like the Frisco or the Cotton Belt cannot just live on what is produced on their lines. They have got to get through business also, in order to be successful.

Com. Alldredge: Yes, of course I can appreciate that.

The Witness: And furthermore, Mr. Commissioner, your rate pattern is generally set for you by what is being done in surrounding territory. By that I mean that a man will come in to you for example, and seek a rate on brick for a certain distance. Well, if we do not have any scale on brick, we see what the other lines are charging on brick.

Com. Alldredge: I understand.

The Witness: And if they are getting, for a haul of 100 miles, 8 cents per hundred pounds, say, I will not charge that man 10 cents per hundred pounds, because he says, "I want the same scale as my neighbor has."

By Com. Alldredge:

Q. Well, now as has been pointed out here, the pattern of rates, or the plan of rates, if you prefer to call it that, in the Western Territory is different from that in Official Ter-
[fol. 4243] ritory; that is right, is it not?

A. No, Mr. Commissioner, that is not right. At least, I do not think it is right, because they have mileage scales of rates, and those mileage scales of rates are based on small groups.

Q. So that they fit together, then, without any particular difficulty; is that correct?

A. I think they are about as good as can be made.

Q. I am not speaking with respect to how good they may or may not be, but merely as to whether or not they fit together without any particular difficulty.

A. The ones that are in effect today do fit together, yes, Mr. Commissioner, because they have stood the test of time, and they are generally satisfactory.

Q. But you have to have a separate classification in your Illinois Freight Association Territory, do you not, in order to bridge over the gap?

A. Yes, sir, that is correct, but then, that is not an insurmountable situation.

Q. No, I was not suggesting that it is. I am just trying to develop the idea with respect to a comparison of the two rate structures as a whole.

A. I understand.

Q. Or the pattern of the rate structures.

A. Yes, sir, just like in an adjoining group anywhere you
[fol. 4244] may have the possibility of different rates that are justified.

Mr. Barron: Had your Honor finished?

Com. Alldredge: That is all I have at the moment.

By Mr. Barron:

Q. Now, Mr. Stanage, we were talking about agriculture and its effect on the pattern of rates. You recall, do you not,

that before the first World War, all of the potash that was used in this country, or practically all of it, came from Europe. You know that, do you not?

A. That is my understanding, yes, sir.

Q. And then during the intervening years, since 1919 up to about 1931, there was a great demand for the development of potash in this country; that is true, is it not?

A. Yes, sir, that is correct. I do not know about the particular years, that is, but there was a certainly a demand for the development of potash in this country, yes, sir.

Q. Well now, in anticipation, or in the hope of finding deposits of potash, would you as a traffic man recommend that there should be an adjustment of rates on potash through one territory, or through two or three territories, in the hope that at some place, some time, somebody would find a potash deposit?

A. No, sir, I would not recommend anything of the kind.

Q. Why not?

A. Because it would be just an idle gesture.

[fol. 4245] Com. Alldredge: Well now—pardon me, counsel.

Mr. Barron: Go right ahead, your Honor.

By Com. Alldredge:

Q. Mr. Stanage, if you would publish a complete rate structure, you would have some rates on potash in that rate structure, would you not?

A. Yes sir, that is correct, Mr. Commissioner, as far as just merely having those rates in your rate structure is concerned, but then, they would be nothing but paper rates, and they probably would not be used even if potash were developed.

Q. Oh, yes, if you were to just go out and guess at it and not pay any attention to your natural resources, that very probably would be correct.

A. Well, Mr. Commissioner——

Mr. Barron: Just a moment. Let the Commissioner finish his question.

The Witness: Pardon me.

By Com. Alldredge:

Q. Now, the closer you approach an understanding of all of the possibilities of the territory that you are operating in,

the more nearly will you make your rates to meet those contingencies; that is right, is it not?

A. Oh, yes, sir, but then, you must also bear in mind this,—and here is my idea about what you are up against: The determination of what are reasonable rates involves the [fol. 4246] exercise of judgment, based upon all of the relevant facts, and if you do not know about the industry in question, and all of the relevant facts concerning it, why, they you are just simply shooting at the moon, so to speak.

Q. Well now, I am afraid that you and I are talking about two different things here.

A. Perhaps we are.

Q. Because you are getting down to individual rates, and I am trying to talk about something else, here.

Mr. Barron: We are talking about future rates, your Honor, over a vast territory, to develop natural resources, and I think that I have a very apt example in this potash to which I have referred.

Chairman Aitchison: Well now, if you had some prehistoric deposits of potash in your territory, if you were so lucky, when you came to make your rates on potash you would take quite a different view of it than you would if you had known that there was not any potash or any likelihood of any potash ever being developed in your territory, would you not?

The Witness: Oh, yes, that is true, of course; there is no question about that.

By Mr. Barron:

Q. After this desire or this demand for potash came to a head, or even prior thereto, do you recall that there was potash produced in Utah, and in California? Do you re- [fol. 4247] call that?

A. Yes, sir, I do recall that, although I would not be able to name the points.

Q. But there was such a production?

A. Oh, yes. There was a production at Carlsbad, New Mexico, or around in that section also.

Q. That was afterwards, was it not?

A. Well, I wouldn't be able to say, as to the date. If you say so, however, I will accept that.

Q. Well now, In California and Utah, do you recall that there were just so-called dried up beds of potash, where the

potash was produced by erosion processes,—or do you know that?

A. Oh, I know that there were shipments of potash from California and Nevada, but I do not know the process.

Q. Now, do you know that along in 1931 there was a vast deposit of potash discovered at Carlsbad, New Mexico?

A. Yes.

Q. And do you know that that potash deposit was discovered after the decision of the Commission in the 13535 proceeding?

A. Yes, sir, that is correct. I believe it was in the 30's.

Q. Well, now in 13535 is it not a fact that the Commission prescribed 16 per cent of first class on manure salts, and 17.5 per cent on potash, or potassium—I believe that is [fol. 4248] what they called it, something like that—muriate,——

A. Of potash.

Q. —muriate of potash. Is that right?

A. Yes, sir, I believe that is correct.

Q. Now, do you know whether or not it was necessary for the Santa Fe Railway,—and if you are familiar with the fact, you may just say so, or if you are not, say so—to reduce the rates from Carlsbad, New Mexico, to all of the Eastern Territory, lower than the basis that the Commission had prescribed in 13535, in order for the Carlsbad producer to meet foreign competition.

A. Oh, I know that they reduced the rate from Carlsbad into the South, with transit at Tulsa, Oklahoma,—I know that, because we joined in it; but I do not recall the adjustment to Official Territory. There is a movement from Carlsbad through Tulsa to the Southern fertilizer plants.

Q. You do not know what that movement happens to be, do you?

A. Oh, it is very substantial.

Q. Well now, Mr. Stanage, is that not the same theory that you would follow, in connection with the development of any natural resources?

A. Exactly.

Q. In other words, would you make a wholesale adjustment of rates in anticipation, in the hope and prayer that [fol. 4249] some day somebody might find something somewhere?

A. No, sir, I certainly would not.

Q. Do you think that would be good railroading?
A. No, sir, it would not be.

By Com. Alldredge:

Q. Well, Mr. Stanage, what would you take into consideration, when you made your whole rate structure?
A. Pardon me, sir?
Q. What would you take into consideration when you made your whole rate structure? Would you just guess at it?
A. Oh, no.
Q. Would you make a complete rate structure just hit-or-miss, just by guessing at it, or how would you go about it?
A. Well, our rate structure is a little like Topsy; it never was born, but it has just grown; and we do not revise our rates in toto, in any instance that I can recall. The only instances in which we have had what might be termed general revisions, have been those cases which were due to complaints, or resulted in investigations by the Commission, where they have dealt with a great body of rates, like in Docket 13535, the Southwestern Cases. In Western Trunk Line Territory, of course, they have had a more limited amount of commodities to consider. You must understand, of course, that our rates are based on requests from shippers [fol. 4250] or receivers for an adjustment which they think is just and proper. The carriers analyze all of the facts, and adjust the rates accordingly. We do not sit down in a room and just change them, without any facts.
Q. I understand that, Mr. Stanage, but I hope that you take more into consideration, when you do make your rates, than just the request of a shipper.
A. You understand our procedure, I am sure. Under our National Industrial Traffic League application, we issue proposals.

Com. Alldredge: I understand that.
Mr. Barron: I have just one further question, if the Commission please.

By Mr. Barron:

Q. Mr. Stanage, do you know whether or not it is a fact that, the West being predominantly an agricultural territory, the rates as of the present time are all on the basis that was prescribed by the Commission in the Hoch-Smith Cases,

Docket 17000 and its various parts, or lower than those prescribed by the Commission in that proceeding?

A. Yes, sir, that is a fact,—on grain, livestock, and so forth.

Com. Alldredge: Just a moment. What was that last question, please?

Mr. Barron: Will you read it.

[fol. 4251] (Question read.)

Mr. Barron: I am just talking about these patterns of rates. I want to show that the Commission itself has fixed the patterns in Western Territory.

Com. Alldredge: Do you not suppose the Commission knows that?

Mr. Barron: Pardon me, sir?

Com. Alldredge: I say, do you not suppose the Commission knows what has been done?

Mr. Barron: Oh, yes, and a whole lot better than I do. There is no doubt about that.

Chairman Aitchison: Let us not take up any more time. Is that all of the redirect?

Mr. Barron: Yes.

Chairman Aitchison: Mr. Bee?

Mr. Bee: I will forego any further questions of the witness, Mr. Chairman.

Chairman Aitchison: You are excused.

(Witness excused.)

Mr. Barron: Mr. Smith.

GEORGE C. SMITH was sworn and testified as follows:

Direct Examination

By Mr. Barron:

Q. Mr. Smith, will you please state your full name, residence and occupation.

[fol. 4252] A. George C. Smith; Assistant to the President, Missouri-Kansas-Texas Railroad; St. Louis, Missouri.

Q. How long have you held that position?

A. Since 1933.

Q. Will you tell the Commission very briefly, Mr. Smith, what your duties are in that position.

A. My principal duty is that I am in charge of the industrial development program of the Missouri-Kansas-Texas Railroad.

Q. Have you held any other railroad positions?

A. Oh, yes.

Q. Will you state those briefly.

A. In August, 1916, I accepted appointment as Industrial Survey Agent of the Baltimore & Ohio Railroad, to assist in the organization of the Commercial Development Department of that railroad. I held that position approximately two years. In 1923 I became executive assistant to the president of the Canton Railroad Company, at Baltimore, Maryland, where my principal duties were to negotiate contracts for the use of our warehouses and our real estate, and develop traffic for the railroad. I occupied that position, I should say, for approximately four years. In 1931 I became general traffic manager of the Missouri-Kansas-Texas Railroad, and occupied that position until I was promoted in 1933.

Q. Just very briefly, Mr. Smith, will you tell the Commis- [fol. 4253] sion something about your educational background.

A. Graduate of the University of Atlanta, in economics, political science and history, with the degree of A.B.; and a scholarship at the University of Wisconsin for one year, postgraduate work, in economics and political science. I was then appointed to the Andrew D. Street Fellowship at Cornell University, which I held for two years, the faculty making my second year a traveling fellowship, and I spent that time in Germany, studying industrial conditions abroad.

Q. You have taught finance and transportation, have you not?

A. Yes, sir; I have taught a number of courses in economics, in a number of universities; the University of Oklahoma, Wisconsin University, Cornell University, New York University, and Johns Hopkins University.

Q. Now, outside of your industrial railroad work, have you occupied any other position relating to industrial location?

A. I left Cornell University in 1913 to go to New York, to organize the Research Department of the Alexander Hamilton Institute, and to finish some work that I was en-

gaged in as consulting economist for the United States Steel Corporation, in connection with its dissolution suit. While with the Institute, one of our clients, the Kelly-Springfield Tire Company, came into my office, through its vice-president in charge of finance, and asked me to outline, [fol. 4254] if I could for them, how to go about finding a location in the United States where the company could produce and distribute tires at the lowest possible cost. I made that research investigation, extending over a considerable period of time, and it was while I was engaged in the conduct of that investigation that I contacted certain officials of the Baltimore & Ohio Railroad and moved from New York to Baltimore, to help organize the department to which I referred.

Q. Now the Kelly-Springfield Tire Company at that time was located and producing at Akron, Ohio; is that correct?

A. Yes, sir.

Q. Continue.

A. I then left the Baltimore & Ohio Railroad shortly after the outbreak of the war, and helped to locate a large British chemical plant that the War Department was bringing to this country for the manufacture of cellulose acetate, or dope used for coating airplane wings. I became secretary of the Chamber of Commerce of Cumberland, Maryland, where I succeeded in getting a plant of the Kelly-Springfield Tire Company located. I was in charge of war production work for the War Resources Board, in Pennsylvania, West Virginia and that portion of Western Maryland,—or rather I should say, in Western Pennsylvania, Western West Virginia, and Eastern Maryland.

[fol. 4255] Q. Do I correctly understand that at one time you were connected with the Baltimore Board of Trade?

A. Yes, sir, I went from Cumberland, Maryland, to the Baltimore Board of Trade in 1919, to organize an Industrial Bureau, and I was there four years.

Q. Now while you were general traffic manager of the Katy Railroad, did you have charge of the industrial work of that department of the railroad, and supervision over the department?

A. Yes, sir.

Q. Have you made a substantial number of industrial surveys during your experience?

A. A great many.

Q. About how many?
A. Substantially more then 100.

Chairman Aitchison: I think, prima facie, you have established the qualifications of the witness. Now, let us go on to something else.

Mr. Barron: I think so, too, your Honor, but I would like to ask one further question along this line, if you please.

By Mr. Barron:

Q. Mr. Smith, during your experience of locating industries, would you venture to state approximately how much money has been invested in the industries which you have located?

A. Substantially more than one billion dollars.

[fol. 4256] Q. Now, Mr. Smith, I wish that you would just very briefly tell the Commission what your experience has been in connection with the location of industries in the Southwestern Territory, particularly along the line of the Missouri-Kansas-Texas Railroad.

A. Well, during the time that I was general traffic manager, and since, as assistant to the president of the Missouri-Kansas-Texas Railroad, I have had charge of that function. I have a staff operating out of Dallas, Texas, and also a staff operating out of St. Louis, Missouri, and we undertake to conduct confidential negotiations for manufacturers, looking for factory or warehouse locations, or for institutions that might be considering the development of mineral resources. We also occupy a portion of our time in the development of agricultural activities that might lead to the establishment of industrial pursuits. We do as much as we have time to do of basic research work, with the idea of preparing studies to determine the fitness of our territory for industry, and seek out the industry, instead of attempting to render a mere order-taking type of service. Our reports, our annual reports to the president and the monthly reports thus far since I have been with the railroad, cover 2694 industrial enterprises, which are not to be confused with manufacturing in its narrower sense.

Mr. Smith, could you give the Commission any of the fac-
[fol. 4257] tors or forces which operate as economic causes in the locating of industries?

A. Well, some of those factors have been given by Dr. Duncan a little earlier at this hearing. First, I would like to say that normally, if one can get in possession of the complete cost data of an industry, that relate to the unit cost of production of the product of that industry, or the products of the industry, one can generally determine from an analysis of such cost data the factors that affect the operation of the industry, and then can rather definitely determine which of those factors are subject to variation, from one location to another. And I might say here that really, the science of industrial location has developed concomitantly with cost accounting, and could not very well have existed prior to the adoption of cost accounting, to any great extent, at least. The normal factors that we talk about so much are labor, power and fuel, freight service and cost of raw materials, their location and demand; markets; overhead expenses, such as land, buildings, taxes, and the like; but in my experience there is no formula possible that is applicable to all of the industries, or possibly to any two industries under different management, in the same line of production.

Q. When you related those different factors, you did not relate them in the order of their importance, did you? [fol. 4258] A. I had no intention of attempting to do so, no, sir.

Q. Do you have any figures, Mr. Smith, on the concentration of industrial areas in the United States?

A. Yes.

Q. What are those figures?

A. I have devoted a good deal of my time to the subject of industrial decentralization, having made efforts to help establish industrial operations around the country, because I thoroughly believe in industrial decentralization as an economic practice for this country; and I am amazed always, when the new census figures come out covering manufacturing industry, to find that the concentration of industry is still going on, and that decentralization, when it started, has usually run into some more or less political situation which has restricted its further operation,—and that, in spite of the fact that virtually all students of the subject, politically and economically, are endeavoring to foster decentralization as a program. The best example that I would be able to give, would be statistics concern-

ing the 33 principal industrial areas of the United States.

Q. Covering how many counties?

A. Pardon me?

Q. 33 areas, covering how many counties?

A. Covering 97 counties.

Q. Being what per cent of all of the counties of the United [fol. 4259] States?

A. 3 per cent.

Q. Go ahead.

A. These 33 industrial areas are located as follows: 6 in Ohio—well, I will put it on a regional basis: 6 in New England; 9 in the Middle Atlantic states; 9 in the East-North Central states; 4 in the West-North Central states; 3 in the Pacific states; and 2 in the Southern states. Since 1899 there has been no appreciable shift in the proportion of industry contained in that 3 per cent of the counties in the United States, 99 in number, up to 1942, measured either by number of wage earners, value of product, or value added by manufacture. As to the wage earners, of the average number of wage earners employed in all of the industries of the United States, 55 per cent are concentrated in 3 per cent of the counties of the United States. With respect to value of product, 60 per cent is concentrated in those same counties; as is also approximately 62 per cent of the value added by manufacture. Those have ranged about as follows: From 54.7 per cent to 56 per cent, for the wage earners; and from 59 and a fraction per cent to 61 and a fraction per cent, for value of product, the range being quite too narrow to indicate that there is anything other than a concentration of industry in this country. It is a concentration which, while it [fol. 4260] seems to be enormous, is not sufficiently enormous to create certain social problems that will result from the further concentration of people in those same communities.

Q. Now, Mr. Smith, from your years of experience with the Katy Railroad, during that time have you ever heard of any industry declining or refusing to establish a producing plant in the Southwest primarily because of freight rates?

A. I have not, no.

Q. Now, with respect to the question of natural resources: Does your Department make explorations or inquiries with respect to natural deposits along the line of your railroad?

A. We perform research work in exactly the same way; we perform that type of work both in that and other directions. We conduct very intensive research work throughout our territory into the mineral and chemical producing products, and the metal producing products, both on the soil and under the soil. That is a part of our regular research work.

Q. Have you been successful at any time in locating mineral deposits which could be developed commercially, along your railroad?

A. Yes, sir. A good deal of our time, however, is spent in trying to cooperate with the states and other established research agencies. We work together and cooperate with them.

[fol. 4261] Q. Do I correctly understand you to mean by that, that you endeavor to educate the state representatives as to industrial work?

A. I would say, that is somewhat of an overstatement of the case. Rather, we work with them.

Q. I see. Now, what is your opinion, in the light of all your experience——

A. I am sorry, but I had not quite finished.

Q. Pardon me.

A. I was just going to add, there are a great many of them.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Continue.

By Mr. Barron:

Q. What is your opinion as to the proposition of promoting industry in any particular region, or decentralizing industry, if all of the different territories were given the same transportation cost on their outbound materials? As I understand it, now, you do not know anything about freight rates.

A. For the purpose of your particular question, I can say that that is correct.

Q. Well, if all of the different territories were given the same transportation cost on their outbound materials, what do you think would be the effect of that?

A. Oh, I doubt if it would have any very serious influence [fol. 4262] at all in breaking up this decentralization that I have talked about.

By Chairman Aitchison:

Q. I assume you misspoke yourself.
A. Pardon me.
Q. I take it you mean, this concentration.
A. This concentration, yes.
Q. You said "decentralization".
A. I meant concentration.

Mr. Barron: Thank you.

A. Thank you for calling my attention to it. Now the fact I do not think has been brought out so far, that industry is industry's best customer. On Page 7, part 2, Census of 1930, item 25, there is a very significant, but short, paragraph, stating that in the estimation of the Director of the Census, two-thirds of the value of products only is net, and one-third represents the sale to industry. Industry tends to concentrate, therefore, to a very considerable extent, either where it can get services from other established industries in the supplying of its raw or semifinished materials, or where it can get markets from industries after it has developed. That is particularly true of the metal goods industry.

By Mr. Barron:

Q. A question has been raised here with respect to the automotive industry, as to why it was located in Detroit, and something was said to the effect that it was because [fol. 4263] Mr. Henry Ford developed his operations to a point where he had to move them from his shed at Dearborn, to some convenient nearby point. Do you know whether or not Mr. Ford, afer he started his production, endeavored to locate at any other point, outside of Dearborn?

A. Not from personal knowledge, no, sir; but from the general history of industrial development in this country, it is assumed everywhere, and stated by many writers, that Mr. Ford attempted to finance his enterprise elsewhere, and he located in Detroit, as so many industries located there, first, because he lived there, and second, because he

was able to a raise a few thousand dollars among his friends to start his enterprise there.

Q. Did the fact that he could get the kind of iron and steel he wanted there, have any effect on where he located? In other words, was that a good foundry town, and did his early cars need a good deal of foundry work?

A. Yes, sir, they did, more particularly on the engine blocks. The balance of his machine, you may remember, was pretty much like a carriage. It did not need much foundry work, outside of the engine.

Q. That is what you mean, then, is it, when you say that industry is industry's best customer.

A. Yes, sir.

Q. In other words, one depends upon the other?

A. One depends upon the other, yes, sir. I was referring [fol. 4264] to just that sort of relationship; and I can go further than that, and say that the finished products of one plant may be the raw materials that are used by some other plant in the production of its goods.

Q. Now, referring back again to the time when you located this cellulose plant—what was the name of that organization, again, please?

A. The American Cellulose & Chemical Manufacturing Company,—the Celanese Corporation.

Q. When you advised your client to locate that plant at the particular point where it was located, were you particularly interested in freight rates on the finished product out of the plant?

A. There was no discussion of freight rates.

Q. In other words, other things must of necessity be considered before the freight rates are considered; is that your experience?

A. Our experience with respect to freight rates is just exactly that, yes, sir.

By Chairman Aitchison:

Q. Well, do you also have in the back of your mind the fact, that, under the statutes of the United States, you are entitled to reasonable rates from your plant, when you have put one in?

A. Oh, yes, sir, certainly, and you also have in the back of your mind, always, the confidence that you may have in

[fol. 4265] the other departments of your own institution; and in our instance——

Q. I am speaking now purely from the standpoint of a prospective industry.

A. Yes, sir, always.

By Mr. Barron:

Q. Now, Mr. Smith, in your work with the Missouri-Kansas-Texas Railroad, do you work in close connection with the Traffic Department?

A. We work in close connection not only with the Traffic Department, but also with the Engineering Department and the Operating Department of that railroad.

Q. In other words, then, all of those departments resolve themselves into a unit, for the good of the railroad; is that it?

A. Yes, sir.

Q. Now, Mr. Smith is there any further statement that you desire to add to your testimony at this time?

A. Well, of course, it is rather difficult to try to compress the experience of 28 years of intensive research work into a comparatively brief statement. However, I do have full appreciation for the desire of the Commission to conserve time, as far as possible.

Q. Have you prepared certain statistics, to which you desire to call the attention of the Commission?

A. Yes, sir, I have prepared a number of statistics, [fol. 4266] which I thought might prove of some interest, and I have tried to avoid the repetition of what I assume might have been submitted earlier here in somewhat voluminous form, in other statements. I have prepared a statement of wage earners and manufacturing by regions, for the years 1889 to 1939, those regions being the regions normally used by the Census of Manufactures, that is, New England, Middle Atlantic and so forth, and not the regions of the rate men that I have heard so much about since I have been here. Considering the per cent of each one of those regions to the total in the United States in 1889, and to the total in the United States in 1939, the relative decrease in the proportion shown by New England was 37 per cent, and the relative decrease in the proportion shown by the Middle Atlantic States was 19 per cent. I shall not read them off, but the South Atlantic shows a

gain of 59 per cent; the East-South Central, a relative gain of 51 per cent; the West-South Central, including Arkansas, Louisiana, Oklahoma and Texas only, shows a gain of 82 per cent; and the Pacific region, a gain of 118 per cent. Now why did I take the year 1889 as a base? Because it represents a date, the date of the first census, I believe, that fully reflects conditions in the South after the horrible depression following the Civil War, and the first census made after the creation of the Interstate Commerce Com- [fol. 4267] mission. The spread, therefore, is the full spread, covering the history of the Commission, and whatever control over rates it may have had during that history; and that was my primary reason for selecting it.

I have made similar figures, using other bases, with the same kind of data, handled in much the same sort of way, with the same result. I have made them on wage earners, I have made them on value added by manufacture, and I have made them on value of products, alone; and the situation is essentially the same. We run into certain comparisons where, in a period of decrease in value of product, a decrease, I might say, that is due entirely to changes in the value of the dollar, as reflected by the cost of living index of the Department of Labor, we can turn those decreases into large increases if we apply the necessary factors of correction. We cannot do that, as to wage earners. The wage earner situation continues to decrease, generally speaking, but the decreases are generally relatively less in the Southwest and on the Pacific Coast, and relatively less, and generally very much less in the South, than in the so-called industrial sections of the United States.

By Chairman Aitchison:

Q. If we were to take the number of wage earners engaged in industry as being the best ga-ge of our industrial [fol. 4268] development, we would find our peak about 1919, would we?

A. Yes, sir.

Q. Do you accept that as being a correct statement?

A. Yes.

Q. That that was our peak?

A. Our peak of employment was along about that time, yes, sir. There is a very interesting statistic that I think throws a great deal of light on that subject, and if it is

not in this record now, it ought to be there. That statistic relates to the power, electric energy that has entered into industry during this century. I think it will amuse you, Mr. Commissioner, to know that the horsepower of electric motors driven by electricity from central electric plants, in 1899 was 178,000 kilowatts, and in 1939 was 29,000,000 milowatts. That is an increase of 17,000 per cent in the use of electrical energy, in the driving of machines; and that development, sir, was what prompted me, in 1926, to ask the Bureau of the Census to make an on-hand survey, in what we consider the heaviest business year in the history of America. I understood you to refer to 1929, and indicate that all of the change had been made since. Perhaps you were referring only to the stock market.

Q. I was referring to 1919. 1919 was our peak, according to this wage earners compilation.

A. According to the wage earners census, 1919.

[fol. 4269] Q. Yes.

A. I can give you the detail of that horsepower figure, if you care to have me do so.

Q. That is not necessary.

A. Very well.

Q. I think Dr. Duncan covered that.

A. But we have substituted electric energy.

Q. For what?

A. For labor. We have developed machines to take the place of labor.

Q. Do you take that as the basis for characterizing this as a condition of industrial decadence?

A. No, sir. I think it creates some problems, however, which we must face, under whatever label we may want to designate them, if we are to be good citizens.

By Com. Alldredge:

Q. If there was one region during this period that electrified more than another, would that not prevent the wage earner statistics from being the true index as to relative industrial growth?

A. That is the trouble with all indices, Mr. Commisioner, that there are so many corrective factors that we must take into consideration.

Q. Yes?

A. (Continuing:) In the use of our figures, and therefore if we are not very alert mentally, we run into all sorts of [fol. 4270] difficulties and reach all sorts of foolish conclusions.

By Com. Splawn:

Q. But that last statement is restricted, from industry to industry, is it not, in the development and improvement of organization?

A. I am very sorry, Mr. Commissioner, but I do not just follow your question.

Q. Take the railroads, for instance. In 1919 how many employees did they have?

A. Well, I think that Dr. Duncan could answer that question very much better than I can, because I have not been working on railroad statistics.

Q. You do not happen to know?

A. No.

Q. You do know, however, that there are a great many less railroad employees at the present time, than there were 20 years ago, do you not?

A. Oh, yes, that is correct,—or even in the early years of the depression, I would say.

Q. But what about the performance of the railroads at the present time with respect to ton-miles, as compared with their performance 20 years ago?

A. I am very sorry, Mr. Commissioner, but I have been devoting the majority of my time during the last three years to trying to help our War Department and our Navy Department in the location of certain enterprises, and I am [fol. 4271] therefore not posted, in connection with current railroad statistics, quite as well as I should be.

Q. Well, your illustration of the use of kilowatt hours, and electrification, could be offered as an example of many such changes from industry to industry; as, in the railroad industry, this great investment of capital in the past 20 years, which has resulted in a decrease in the number of employees, and yet has not resulted in a decrease in the performance of the industry.

A. That is generally correct.

By Chairman Aitchison:

Q. Well, I do not know whether I have made the correct deduction from this peak of 1919, of our industrial development, or not. Is that intended to convey the idea that we are not producing more, or of better quality, or faster, or cheaper at the present time than we were in 1919?

A. I believe I have, in this mass of figures here, Mr. Commissioner, a comparison between 1919 and 1939, in connection with industrial production.

Mr. Barron: Just a moment, please, Mr. Smith. Mr. Chairman, unfortunately, we did not receive certain exhibits that Mr. Smith had prepared. They were shipped Tuesday from St. Louis, and they should surely arrive this afternoon or evening. If I may be permitted to submit those exhibits, and have them given a number, I think they [fol. 4272] will answer a lot of your questions. I take it there will be no objection to that.

Chairman Aitchison: Without objection, that may be done.

By Com. Splawn:

Q. During the depression year of 1930, a great many companies introduced improvements and adopted new inventions, and the like, the use of which cut down the number of employees, but increased the output per month. That is correct, is it not?

A. Yes, sir, that is true, and that was the question that I wanted to answer, on the part of the presiding Commissioner. The value of products in 1919, as shown by the Census, was $62,000,000,000; in 1939 it was $56,000,000,000, or a decrease of $5,200,000,000, approximately. But when you apply your corrective factor, due to changes in the price level, that $56,000,000,000 becomes $102,000,000,000, so that there is an actual increase, taking into consideration the change in price level, of 64.7 per cent, in production in the United States, whereas the statistics show a loss.

Q. Now, during that decade of the depression, these inventions took place that replaced labor, and thousands, or hundreds of thousands of people in the 33 areas found themselves out of employment. Now they were a labor reserve in those areas, were they not?

[fol. 4273] A. Well now, Mr. Commissioner, let me answer your question in this way: The population in the United States, during the first three of the decades that we have covered in this compilation, or in this study, rather, increased 61 per cent, while the population in these areas increased 110 per cent. There was no increase in proportion of manufacturing done in the areas, and that alone, with the continued growth of population in a few centers in the United States, was what I think focused the attention of the country generally, in the earlier stages, on our unemployment problem.

Q. That is what I wanted to ask you about, if, in your surveys, you found that this pressure of numbers in the areas of concentration, and the building up of labor reserves over a period of years, results in any new enterprises for the exploiting or the utilizing of the labor forces there seeking employment?

A. Oh, I think that there probably are some situations of that sort, yes, sir. For example, take some of the forced migration down to Mississippi,—and when I say "forced," I mean, forced by the community type of financing enterprises, and I might say, I have been through a good deal of the community type of financing enterprise myself, so I am not speaking derogatorily, but I am merely using the economic forces, as an illustration—that type of financing in Mississippi was probably due to the amendment to the [fol. 4274] Constitution which was probably due to the unemployment that existed in Mississippi, and the desire of a number of the communities down there to get something done. At the same time, Louisiana exempted its industries, its new industries, from taxation, and I think for the same reason.

Q. I understood you so say, however, that in these 33 areas, the number of enterprises and the capital investment in manufacturing did not increase.

A. No, sir, that is not correct. I made no such statement, with respect to either item, Mr. Commissioner.

Q. Well, I am glad to be corrected, then, because that is the way I understood your testimony.

A. What I said, Mr. Commissioner, or at least what I intended to say, was this, that there had been no change in the proportion of industry in those 33 areas, as compared

to the country as a whole, in the four census periods, 1899 to 1939, inclusive.

Q. Now, did you make any study of the relationship of the industries within those areas, to themselves, or to the areas, over a period of years?

A. I have not over a period of years, no, Mr. Commissioner, but I would like to give you one illustration, which is an illustration from the Bureau of Census. I do not claim any originality in connection with it. It shows, in speaking of the net value of manufactured products as [fol. 4275] against this published value, which includes the resale of articles for further use, a rather interesting illustration concerning copper. Copper wire is a second or third product. In other words, there is, first, the smelter; then there is the rolling mill; then there is the drawing mill; and then various other places; but each is patterned to serve the other. Then there is the electric ignition system, and then the engine, and then the automobile. By that time you have got the copper wire in your figure six times. You can take almost any kind of an industrial operation, and find the same thing.

Q. In your study of industry, have you found labor, particularly skilled labor, to be very mobile?

A. Not exactly as mobile as a lot of people are inclined to believe, I would say. I have a specific illustration in mind. You understand, we do not talk specifically about any industry that we have worked with. I had been trying to get a certain publishing house to move from New York to Baltimore, and finally we were promised, and very definitely promised, that that publishing house would move to Baltimore. The president of the company had been down to discuss the matter, and on the way to Philadelphia he happened to engage a Baltimorean in conversation, in the smoking room, and he told that Baltimorean that he was going to move his plant to Baltimore; that he had just [fol. 4276] finished studying our survey, and he was very well pleased with the situation. The Baltimore man did not know that that was a confidential talk, and he did some talking himself, with the result that the matter got into the newspapers; whereupon a delegation of editorial writers and others on the staff of the company in New York, some 180 of them, I am told, called on the president of the company, and as a result of the call, that company did not

move to Baltimore. There is a case of not moving skilled labor.

Q. Now, we have had some testimony here to the effect that during the war these reserves of unemployed skilled labor in these 33 areas are being moved about, from plant to plant.

A. Oh, they are, in periods of unemployment, yes, sir. People will seek work, everything else being equal, and try to get it wherever they can.

Q. And now, with Government-subsidized plants, they are being moved more rapidly than ever before to different parts of the country; that is correct, is it not?

A. They are being moved, yes.

Q. How about new industries, war industries, being located on the railroad? Do you have any? Have any new industries been built, defense plants, air fields, or anything of that sort, on the Katy?

[fol. 4277] A. The new industries announced on the Missouri-Kansas-Texas Railroad last year, stated in dollars exceeded $160,000,000, and in ten months of this year have exceeded $180,000,000. However, I would not want to discuss the matter any further than that, in the interest of the War Department.

Q. Well, let me ask you this question, the answer to which will not reveal any military secrets. That is not the intention at all.

A. I know it is not.

Q. Are they getting their employees largely locally, say, from the county seat points along your line, or are they bringing them in from this labor reserve in the 33 industrial areas that you have outlined for us here?

A. Well, in the original development of the locations, certain standards of population count within a certain number of miles of the proposed sites, were laid down as requirements,—or factors, if you please, to be sought after, and we were therefore obliged to find locations where we could establish an industry within a given number of miles of a given population, which was estimated to be sufficient to take care of the labor requirements of the operation of the plant. I am not talking about construction labor, now, because construction labor is admittedly mobile, and can be moved from one location to another.

[fol. 4278] By Com. Alldredge:

Q. On the whole, is not skilled labor, as a matter of fact, more mobile than — labor?

A. I do not think so, no, Mr. Commissioner. The big common labor reservoirs of the United States are quite different from the big skilled labor reservoirs of the United States. If you look over the population, and the employment record cards, as I have, of some of the big industries, you will find that it is the hill billies of Kentucky and Tennessee, and we also have millions of them in the Southwest, in the Ozark country, who have constituted the great American common labor reservoir that went to town, built the cities, and became skilled workmen.

By Chairman Aitchison:

Q. Well, they may have gone to town, but did they go very far away, as a rule?

A. When I was making a study of the possibilities of locating the Kelly-Springfield Tire plant, I made a count of the one-way tickets sold in the City of Cumberland, Maryland, to Akron, in order to reflect proof of a statement which I had developed through an examination of employee records, and I found in a period of 12 months some 1800 one-way tickets had been sold in that direction. I do not know how many miles that is, but it is not close.

Com. Alldredge: That was common labor?

The Witness: A lot of it was coal miners.

Com. Alldredge: Sir?

[fol. 4279] The Witness: A lot of it was coal miners. Coal mining had passed out of the picture in that area. A lot of them had been working in the lumber operations in that territory and had sought employment in the new industrialized territory.

Com. Alldredge: I want to ask you one other question. I do not want to interrupt Commissioner Splawn.

Com. Splawn: Go ahead.

Com. Alldredge: You may have put something into the record in this exhibit about it. I do not know. I have not seen it.

By Com. Alldredge:

Q. Is it not a fact that in recent years through the discoveries of science, agricultural commodities are more and more becoming sources of industrial raw materials?

A. My office organized in cooperation with the Oklahoma City Chamber of Commerce, the Oklahoma Farm Chemurgy Council. We have been very much interested in that program, yes, sir.

Q. Is it not true that what once were areas that were thought to be doomed solely to agricultural production, might offer an opportunity for industrial development?

A. I laid a great deal of stress on that point in addressing the annual meeting of the Chamber of Commerce of Fort Worth, Texas, a short time ago.

[fol. 4280] Chairman Aitchison: Is your answer "Yes"?

The Witness: Yes.

Chairman Aitchison: All right.

Com. Alldredge: That is all I have.

Chairman Aitchison: Do you offer Exhibit No. 188?

Mr. Barron: Yes.

Chairman Aitchison: Without objection, it is received.

(Exhibit 188, Witness Smith, received in evidence.)

Mr. Barron: That is all.

Chairman Aitchison: Is there any cross examination?

Mr. Bee: Yes.

Chairman Aitchison: Mr. Bee.

Cross examination.

Mr. Mr. Bee:

Q. In the years 1940 and 1941, how many industries did you locate on the lines of the M-K-T in the Southwest exclusive of so-called government work?

A. I cannot answer that question.

Q. You show a tremendous increase in the year 1941 of industrial contracts in the Southwest as compared to other territories. To your knowledge was the large proportion of that government work?

A. I have not shown that, but I should be very happy to.

Q. I think you have, by Exhibit No. 188 on page 3. You [fol. 4281] show that the industrial construction increased

from three million in 1939 to 103 million for Oklahoma alone in the year 1941.

A. That is correct.

Q. Is that right?

A. Yes.

Q. And for the four states, from 33 million in 1939 to 701 million plus in 1941?

A. That is correct.

Q. You did show, then, a tremendous increase in the year 1941, did you not?

A. In construction.

Q. Yes.

A. In total.

Q. Was not the greater portion of that so-called government work? You know what I mean by the term "government work", do you not?

A. Of course. The answer is "Yes".

Mr. Bee: Yes.

By Mr. Bee:

Q. You say you have known of no industry failing to locate on your line by reason of freight rates. Have you known of any industry located on your line in Oklahoma that was forced to open another plant somewhere else because of freight rates?

A. There are 10,000 companies in this country operating [fol. 4282] on branch plant policies, and the most fertile field for the industrial man in his sales area is to find those companies that are trying to reach new markets and search them out to serve the markets in the teritory along his railroad.

Q. Do you know that the Kerr Glass plant, one of the largest fruit jar industries in the country, was forced to locate a plant without the Southwest in order to serve the demands for its commodity in the East by reason of freight rates?

A. Fruit jars are distributed——

Q. Please answer my question. Do you know whether they did or not?

A. (No answer.)

Q. Do you know whether they did or not?

A. I do not.

Q. And you cannot advise us in connection with Mr. Stanage's Exhibit No. 186 which of these industries located in 1940 or 1941 were located as a result of the work of the Industrial Department of the M-K-T of which, I believe, you are the head?

A. A very considerable number of them were.

Q. Could you point them out to us, please? Could you give me one in Oklahoma that you or your Industrial Department was responsible for the location of?

Mr. Barron: Have you got a copy of Mr. Stanage's Exhibit 186?

[fol. 4283] The Witness: I have not.

Mr. Barron: I do not know as this means anything, but if he wants to take up the time, it is all right.

Mr. Bee: We will see how much industrial development there has been and what they did back in 1940 and 1941 in our state.

The Witness: Do you live in Oklahoma City?

Mr. Bee: Yes.

The Witness: Would it interest you to know that I went to the Oklahoma City Chamber of Commerce some time ago and gave them a lead for the location of a particular type of enterprise that has resulted in the expenditure of probably 40 to 50 millions of dollars in the last 12 months?

Mr. Bee: I think I know what it was. It was in connection with war work.

The Witness: Yes. Of course.

Mr. Bee: Yes.

The Witness: You know you cannot now get any permits to build anything in the United States.

Mr. Bee: I was not talking about 1942.

The Witness: Except for certain work.

Mr. Bee: I did not ask for the year 1942. I intentionally got away from it. I asked for the year 1940. We were not bothered by priorities or anything of that kind at that time. I carefully avoided that.

[fol. 4284] The Witness: I see a good many there we did work on. I do not see any in Oklahoma.

Mr. Bee: Thank you.

By Mr. Barron:

Q. That does not mean to say that there was not any, does it?

A. No, it does not.

Q. Because you do not see them there?
A. No.

Mr. Barron: All right. That is all.
The Witness: I looked at the list very quickly.
Mr. Barron: That is all.
Chairman Aitchison: Are there any other questions of this witness? (No response.) If not, you are excused.
(Witness excused.)

Mr. Barron: May we have a two or three minute recess, Mr. Chairman?
Chairman Aitchison: We will take a five minute recess.
(Short recess.)

Chairman Aitchison: Come to order, please, gentlemen. You may call your next witness, Mr. Barron.
Mr. Barron: Mr. Austin.
Chairman Aitchison: Raise your right hand and be sworn.

M. L. AUSTIN was sworn and testified as follows:

[fol. 4285] Direct examination.

By Mr. Barron:

Q. Will you state your full name for the record, please, Mr. Austin?
A. M. L. Austin.
Q. Your occupation?
A. Industrial Commissioner.
Q. For what railroad? By what railroad are you employed?
A. The Frisco Lines.
Q. How long have you been in your present capacity?
A. Approximately 10 years.
Q. Briefly, what are your duties?
A. We supervise the location of new industrial development matters generally.
Q. When you are advised as to different industries that contemplate locating in the Southwest, do you endeavor to have them locate along your railroad?
A. Yes, sir.
Q. Do you make surveys for them?
A. We do, upon request.

Q. Do you cooperate with the Traffic and other departments in the establishment of the industrial factories along your railroad?

A. Yes, sir.

Q. Do you find that water is one of the important elements or factors in the location of industry in your territory?

[fol. 4286] A. I find it is an important factor in a good many cases.

Q. Have you ever in your experience heard of an industry refusing to locate in your territory because of the freight rate adjustment?

A. I did not, sir.

Q. Did you hear the testimony of Mr. Smith?

A. I did, sir.

Q. Generally, if I were to ask you questions pertaining to the same situations along your railroad, would your answers be the same as his?

A. My answers would have to be the same as his, yes, sir.

Mr. Barron: That is all I have from Mr. Austin.

Chairman Aitchison: Is there any cross-examination?

Mr. Bee: Just one or two questions.

Chairman Aitchison: Mr. Bee.

Cross-examination.

By Mr. Bee:

Q. Mr. Austin, have you seen Mr. Stanage's Exhibit No. 186?

A. Is that the list of industries?

Q. Yes.

A. Yes, I have.

Q. Take the year 1940, please, and tell me which industry on that list your Industrial Department caused to locate in the Southwest.

Chairman Aitchison: First, did you supply the data [fol. 4287] for that exhibit?

The Witness: I supplied the list, yes, sir.

Chairman Aitchison: You supplied the list for your railroad?

The Witness: Yes.

Chairman Aitchison: All right.

Mr. Bee: All right.

By Mr. Bee:

Q. Now tell me which industries on that list you caused to locate, or your department caused to locate on your railroad?

A. I have not checked them off, but there are a good many we had a lot to do with, in conjunction with other departments. For instance, I see one here.

Q. Give us the line number, please.

A. I do not have a copy of the exhibit. I have in mind the Allied Materials Corporation. Line 12 is one we had a lot to do with.

Mr. Barron: In 1940 he wants.

The Witness: I did not understand him to say that.

Mr. Barron: 1940.

The Witness: I did not understand that. Well, we will take the Southwest Corrugated Box Company at Fort Worth.

By Mr. Bee:

Q. The line please?

A. Line 41.

[fol. 4288] Q. Line 41?

A. Yes.

Q. Any others?

A. We had a great deal to do with the Cardox Manufacturing Corporation at Claremore, if I can find it on here. I think it is 41.

Q. I am referring now to 1940.

A. I will substitute the Oklahoma Compressed Steel Company at Oklahoma City. Is that sufficient?

Q. Yes. Take the Oklahoma Compressed Steel Company: How much of an industry was that?

A. Their equipment cost, I understand, $60,000, for the machines that they use, principally.

Q. It is a scrap iron plant, is it not?

A. Yes.

Q. Their machinery consisted merely of a pair of cutters and a compress to press it into bales?

A. That is right.

Q. It located upon a spot that had been long used for the same purpose, is that not correct?

A. No, sir. The land was vacant when they took it.

Q. You mean, there had not always been a scrap iron industry located at that particular spot?
A. Yes.

Mr. Bee: That is all.

[fol. 4289] Mr. Barron: I have no further questions.

Chairman Aitchison: Are there any other questions of this witness? (No response.) If not, you are excused.

(Witness excused.)

Chairman Aitchison: Call your next witness.
Mr. Barron: Mr. Griffith.
Chairman Aitchison: Raise your right hand and be sworn.

R. C. GRIFFITH was sworn and testified as follows:

Direct examination.

By Mr. Barron:

Q. Will you give the reporter your full name, Mr. Griffith?
A. R. C. Griffith.
Q. What is your occupation?
A. Land and Industrial Commissioner, Texas & Pacific Railway.

Mr. Bee: We cannot hear the witness. Speak up, please, sir.

By Mr. Barron:

Q. What is your occupation?
A. Land and Industrial Commissioner for the Texas & Pacific Railway.
Q. Located at Dallas?
A. Yes.
Q. How long have you been Land and Industrial Commissioner?
A. I have been Land and Industrial Commissioner for 14 [fol. 4290] years and in the department for 23 years.
Q. Briefly, what are your duties.
A. To assist industries in finding locations on the Texas & Pacific Railway.
Q. Do you make surveys for any prospective industries that make inquiry of your department?
A. Yes, sir.

Q. Do you find along your right of way any difficulty in locating industries because of water?

A. Yes, a great deal of difficulty. There is a very large quantity of salt and alkali in lots of the water in Texas.

Q. Have you ever heard during your experience of any industry declining to locate along your right of way because of the freight rate adjustment?

A. No, sir.

Q. Did you hear the testimony of Mr. Smith?

A. Yes, sir.

Q. If you were asked the same questions relative to your railroad, would your answers be the same as his?

A. Yes, sir.

Mr. Marron: That is all I have.

Chairman Aitchison: Is there any cross-examination?

Mr. Bee: None.

Chairman Aitchison: If there are no other questions, you are excused.

(Witness excused.)

[fol. 4291] Chairman Aitchison: That is all of the witnesses of this character you are going to have testify?

Mr. Barron: Yes.

Chairman Aitchison: That is all you have?

Mr. Barron: That is all I have. We did have one witness, however, Mr. Chairman, Mr. Roberts from Dallas, Texas, who unfortunately is not here. If he shows up tomorrow, I hope it will be agreeable for him to go on out of turn?

Chairman Aitchison: Whom do we hear next?

Mr. Hughes: Mr. Plunkett has a witness. May we ask your indulgence for just a minute, Mr. Chairman?

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Back on the record.

Mr. Plunkett: Be sworn, please, Mr. Anderson.

Chairman Aitchison: Raise your right hand.

O. M. ANDERSON was sworn and testified as follows:

Direct examination.

By Mr. Plunkett:

Q. Will you give the reporter your full name, please, Mr. Anderson.

A. My name is O. M. Anderson.

Q. What is your occupation?

A. I am Commerce Agent of the Great Northern Railway.

Q. Located where?

[fol. 4292] A. Located at St. Paul, Minnesota.

Q. How long have you been connected with the Traffic Department of the Great Northern Railway?

A. For somewhat over 25 years.

Q. Have you prepared some information relating to the effect upon the Northwest Territory of the extension of the C.F.A. scale into your section?

A. I have.

Q. Will you proceed to give the result of that?

A. The exhibit which I am about to discuss, I believe, has been distributed.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Proceed, Mr. Plunkett.

By Mr. Plunkett:

Q. Have you prepared an exhibit, or had prepared under your direction an exhibit showing the present class rates from various points in Western Trunk Line, Official and Southern Territories to representative points in Minnesota and North Dakota?

A. I have.

Mr. Plunkett: We will ask to have that marked for identification as the next exhibit, if the Chairman please.

Chairman Aitchison: It may be marked for identification as Exhibit No. 189.

(Exhibit No. 189, Witness Anderson, marked for identification.)

[fol. 4293] By Mr. Plunkett:

Q. Have you any comments now with respect to that exhibit?

A. Witnesses for interests in the States of Minnesota and North Dakota have appeared at this hearing and I understood have advocated the adoption of the Eastern Class Rate scale between Official, Western Trunk Line, Southern and Southwestern Territories on the one hand, and points in Minnesota and North Dakota on the other hand. This exhibit was prepared to show the effect of such a rate adjustment on jobbers located at such points as Minneapolis, Duluth, Fergus Falls, Fargo, Bismarck and Minot.

Chairman Aitchison: This exhibit only covers first class rates, does it?

The Witness: Yes, first class rates, and I think if I cite one example, it will illustrate what the exhibit shows throughout. Page 1 shows that a New York shipper now pays $2.75 per 100 pounds to ship an article rated first class from New York to Wadena, Minnesota. A Minneapolis shipper pays 88 cents. The New York shipper pays $1.87 more per 100 pounds than the Minneapolis shipper. If the Eastern Class Rate scale were prescribed from New York and Minneapolis to Wadena, the New York shipper would pay $2.20 per 100 pounds and the Minneapolis shipper 74 cents per 100 pounds, so that the New York shipper would pay $1.46 more than the Minneapolis shipper. In other words, the Minneapolis [fol. 4294] shipper would secure a reduction of 14 cents per 100 pounds as compared with the New York shipper who would secure a reduction of 55 cents per 100 pounds, thus improving the New York shipper's competitive position as against Minneapolis by 41 cents per 100 pounds. The entire exhibit shows that same information. It varies according to destination.

By Mr. Plunkett:

Q. Does the exhibit show the improvement in the relationship between the East and Fargo, North Dakota, to points in North Dakota?

A. Yes.

Q. That starts on page 13 and runs through 16, does it, using various destinations?

A. That is correct. The first four pages deal with Minneapolis as a distributing point. The next four deal with Duluth as a distributing point. The next four deal with Fergus Falls as a distributing point. The next four deal with Fargo. The next four deal with Bismarck. The last four deal with Minot.

Q. Are those points all distributing points for merchandise?

A. They are.

Q. Have you anything further to say about this exhibit?

A. I think not.

Mr. Plunkett: I offer in evidence Exhibit No. 189, if the Chairman please.

Chairman Aitchison: Is there any objection to the [fol. 4295] receipt of Exhibit 189? (No response.) It is received.

(Exhibit 189, Witness Anderson, received in evidence.)

Mr. Plunkett: That is all on direct.

Chairman Aitchison: Is there any cross examination?

Mr. Williams: Yes.

Chairman Aitchison: Mr. Williams.

Cross-examination.

By Mr. Williams:

Q. Mr. Anderson, would you turn to page 2 of your Exhibit No. 189.

A. Yes, sir.

Q. Tell us what the first class rate is from Minneapolis to Fargo, stated as the present first class rate.

A. $1.19.

Q. That first class rate is applicable only to carload traffic, is it not?

A. I think not.

Q. Just to save a little time, you know that the first class rate from Minneapolis to Fargo presently in effect on less than carload traffic is 95 cents plus 6 per cent as the result of the Ex Parte 148 increase, do you not?

A. No. I do not know that.

Chairman Aitchison: This does not include the Ex Parte 148 increase.

Mr. Williams: No, but it shows $1.19 against the 95 [fol. 4296] cent rate without the Ex Parte 148 increase.

Chairman Aitchison: The $1.19 rate is also without the Ex Parte 148 increase.

Mr. Williams: That is right.

The Witness: I think I answered your question. Is there something you want me to say?

By Mr. Williams:

Q. You do not know what the first class rate is, then, between Minneapolis and Fargo?

A. I do not have it in my head, no.

Q. Would you check it up and supply it for the record?

A. I think it is $1.19. If you say that is wrong, I will be glad to check it up and get the right figure.

Q. Did you not participate in Ex Parte MC-34 and do you not know that the rate is 95 cents?

A. I do not think I participated in the case to which you refer.

Q. Will you supply that information for the record? I know that you want the Commission to have the correct information.

A. Certainly.

Q. Will you please supply that for the record then?

A. Certainly. I will be glad to.

Mr. Williams: If you will not accept my word for [redacted].

By Mr. Williams:

Q. Now, will you also refer to the 87 cent rate which you call the Eastern Class Rate?

[fol. 4297] A. Yes.

Q. That is 87 cents without the Ex Parte 148 increase?

A. That is correct.

Q. Will you turn to page No. 13 where you depict the first class rate from Fargo to Jamestown.

A. Yes.

Q. Can you say what that rate is.

A. 64 cents.

Q. Is that the carload first class rate or less than carload first class rate?

A. (No answer.)

Q. Or don't you know?

A. I think it applies on both.

Q. But you know that there is a lower first class rate between Fargo and Jamestown on less than carload traffic than the 64 cent rate shown, do you not?

A. No. I do not know that.

Q. If I show you Great Northern Railway Company tariff No. 1065-G, North Dakota Railroad Commission No. 206, at page No. 88——

Chairman Aitchison: Mr. Williams——

By Mr. Williams:

Q. (Continuing)—will you say what the first class rate is for 92 miles?

Chairman Aitchison: You said "1065-G." It is 1065-H. I do not know whether that makes any difference.

[fol. 4298] Mr. Williams: It is 1065-H. It is an intrastate tariff and is not part of the record. I ask that that be corrected.

By Mr. Williams:

Q. I will ask you if the rate for 92 miles in North Dakota is 58 cents instead of the 64 cent rate shown.

A. I would like to have an opportunity to check that up. I would not say offhand. If you say that is the carload first class rate——

Q. That is the less than carload rate, the 58 cent rate shown.

A. I agree with that.

Q. That is correct, is it not?

A. Yes.

Q. Now, to that extent, the rates shown in your exhibit to all North Dakota points are in error, are they not?

A. That is right.

Q. Do you desire to make a correction in your North Dakota rates for the benefit of the Commission?

A. I think I would like an opportunity to submit a supplemental exhibit that would show this same comparison using the less than carload first class rates. However, you understand that this comparison is still good as far as any carload traffic is concerned that might move on first class rates.

[fol. 4299] Chairman Aitchison: Would there be much except pianos and things like that?

The Witness: There would not be very much, Mr. Chairman.

By Mr. Williams:

Q. Do you know of any moving between Fargo and Jamestown or between Fargo and any other North Dakota points, first class?

A. No. I do not know.

Mr. Williams: If you want to correct the exhibit, I have no objection, because the error holds through the balance of the exhibit for all of the North Dakota points.

The Witness: I would like an opportunity to correct the exhibit.

Chairman Aitchison: You may have that opportunity. Proceed.

By Mr. Williams:

Q. It is your thought, as I gather from a study of this exhibit, that Fargo and other North Dakota points would be prejudiced to the advantage of Boston and New York and Chicago and points east, getting in to North Dakota if the Eastern Class Rate scale were adopted by the Commission as a result of this proceeding?

A. Yes.

Q. Is that correct?

A. That is correct. I do not understand how the Eastern Class Rate level can do a distributor at Fargo, North [fol. 4300] Dakota, any good.

Mr. Williams: That is all, thank you.

Chairman Aitchison: What about the consumer?

The Witness: It might do the consumer some good.

Mr. Williams: You understand I represent the consumers, speaking for the Public Service Commission.

The Witness: I do not know who you represent, Mr. Williams. I do not know whether you represent consumers, shippers or distributors.

Mr. Williams: In view of the fact we represent consumers, we are anxious to have New York, Boston and Chicago get into North Dakota in competition with any other North Dakota city.

Mr. Hughes: Which would be difficult for some of the other territories in this proceeding.

Mr. Williams: If their position is different than that, I would like to have the record corrected to show that North Dakota is interested in the consumer.

Chairman Aitchison: Are there any other questions?

By Mr. Plunkett:

Q. Mr. Anderson, would you want to correct pages 13 to 23 to show that the first class rates intrastate in North Dakota are the carload rates?

A. Yes. I would like an opportunity to correct the entire exhibit, to re-check the entire exhibit to see if there are any other errors such as Mr. Williams has brought out.

[fol. 4301] Chairman Aitchison: How long will that take you?

The Witness: It would not take very long. I should say five days would be long enough. Just long enough to get home and go into the matter.

Chairman Aitchison: Suppose a new exhibit is prepared, Mr. Plunkett, and you can see that copies get to the Commission and you may also ask for an amendment at the next hearing.

Mr. Williams: Thank you.

Chairman Aitchison: Is that agreeable with you, Mr. Williams?

Mr. Williams: Yes.

Chairman Aitchison: Are there any other questions of this witness? (No response.) If not, you are excused.

(Witness excused.)

Mr. Barron: I have three other witnesses, Mr. Chairman, who are not here, whose names I would like to have appear in the record. They are J. G. Carlisle, Director of Industrial Development of the Missouri Pacific at St. Louis; A. M. Reese, Assistant to the President of the Kansas City Southern at Kansas City; and Mr. C. C. Rockenbach, Industrial Commissioner, St. Louis-Southwestern Lines at St. Louis. Their testimony if they were to appear here would be along the same lines as the testimony of Messrs. Smith, Austin and Griffith. Out of a desire to save time, I will [fol. 4302] not put them on the stand.

Chairman Aitchison: Very well.

Mr. Barron: I do want you to know that their testimony would be along the same lines.

Chairman Aitchison: Are you ready, Mr. Hughes?
Mr. Hughes: Yes.
Chairman Aitchison: Proceed.
Mr. Hughes: Take the stand, please, Mr. Fyfe.

R. C. Fyfe recalled:

Direct examination.

By Mr. Hughes:

Q. Are you the same Mr. R. C. Fyfe who has heretofore appeared and testified in this proceeding?
A. Yes, sir.
Q. Will you, in order to shorten the presentation, give certain samples of the items in your statement which has been distributed, in order that we may have and the Commission may have an understanding of the general nature of the testimony.
A. All right.

Mr. Hughes: Mr. Chairman, Mr. Fyfe's statement which covers a great many individual items has been circulated and I would like to have it identified as Exhibit No. 190.
Chairman Aitchison: It may be marked for identification as Exhibit No. 190.

[fol. 4303] (Exhibit No. 190, Witness Fyfe, marked for identification.)

By Chairman Aitchison:

Q. Mr. Fyfe, if you were asked separately about these matters contained in Exhibit No. 190, your answer would be that the statements are correct?
A. That is correct.

Chairman Aitchison: Is there any objection to the receipt in evidence of Exhibit No. 190? (No response.) It is received.

(Exhibit 190, Witness Fyfe, received in evidence.)

Chairman Aitchison: Now, will you give us a brief running account of what is in here, Exhibit No. 190, without going into meticulous detail.
The Witness: The first 19 pages of the exhibit deal primarily with the request from Witness Little in his Ex-

hibit No. 80 for incorporation in the classification by order of the Commission of the exceptions to the classification now published in the different territories. Reference is made in Mr. Little's testimony regarding the decision of the Commission in 54 I.C.C., the Consolidated Classification Case. The statement is made in Mr. Little's testimony that the Director General could, if he had chosen to do so, have published a uniform classification. I would like to direct attention particularly to that part of the exhibit, page [fol. 4304] 17. I have there set forth the recommendations of the Commission's force.

I have shown on page 17 what would have happened in the classification, just taking letters A to F, inclusive. In the way of advances, it would have meant 661 in the Official Classification Territory, 614 in the Southern Classification Territory and 496 in the Western Classification Territory. In reductions it would have meant 700 reductions in Official Classification Territory, 623 in Southern and 921 in Western. In other words, the suggestions of the Commission's experts with respect to letters A to F would involve 4,015 changes.

By Chairman Aitchison:

Q. Were not some of those, Mr. Fyfe, the same changes counted three times?

A. I am sorry, but I did not get the question.

Q. I say, were not some of them the same changes, and therefore counted three times?

A. Yes—no. I have checked the proposed rate changes in each territory both carload and less than carload in those letters.

Q. Suppose the proposal by the Commission's experts in the Appendix 6 to 54 I.C.C. 1, was to change the classification from 3rd to 2nd in all three territories; that would be counted as three times here, would it not?

A. It would have been a change in each territory, if they [fol. 4305] recommended a change in each territory. In many of these cases there was only a recommendation for a change in one territory or in two territories; sometimes in all three territories.

Q. Well, bringing two of the territories in harmony with the 3rd, it would count them as two changes?

A. That is true.

Chairman Aitchison: Proceed.

The Witness: On page 18 I make reference to what Mr. Little said about the Merchandise Traffic Report which the carriers could not see fit to adopt. I have shown there that instead of reducing the number of classes it would have multiplied the number of classes. For example, working on a weight basis alone, on page 19 I have shown that plate glass, lumber and brick would all be rated alike. Whiskey, wines, liquors, vinegar and alcohol would all have been rated alike. It just was not in the picture.

Chairman Aitchison: That is because of ignoring the value element?

The Witness: It was entirely a weight per cubic foot basis, regardless of how the articles were packed, or competition. It was weight alone with an insurance differential to be added for insurance purposes. In other words, it was to be made on the standard basis, and then, if I understand it correctly, if the shipper wanted the carriers [fol. 4306] to assume liability for transportation, he paid an insurance charge and the rates were to be based under the Merchandise Report on the shipper's liability. The report, however, ignored, as has been pointed out, and ignored entirely, the element of reason.

I would like to direct attention to page 19 of this exhibit, which deals with the testimony of Mr. Plowman, Traffic Manager of the Colorado Fuel & Iron Company, in which he testified that the rating on shell forgings in the West was Column 45, while it was 40 in the East. As a matter of fact, I am fully acquainted with the article that moves from Pueblo, the Colorado Fuel & Iron Company, to Omaha, for manufacturing purposes, and it is nothing but a rough turned forging. It weighs 125 pounds. It has no semblance of being part of a finished shell, or a partially finished shell. The actual rate on it is the iron and steel forging rate, or Column 32½. Columne 32½ applies in the East on the same article. So from a classification standpoint, he has identically the same classification basis.

Chairman Atchison: With respect to Mr. Plowman, do I understand he is paying the higher basis?

The Witness: Yes. He said he was paying the Class A rate.

Chairman Aitchison: Which is what percentage?

The Witness: 45 from Denver.

[fol. 4307] Chairman Aitchison: I suppose somebody can make a reparation case out of that. I suppose somebody will be paying some reparation.

The Witness: No, sir. Nobody had to pay any reparation.

Chairman Aitchison: I say, I suppose somebody will have to pay some reparation.

The Witness: I beg your pardon?

Chairman Aitchison: I say, I suppose somebody will have to pay some reparation.

The Witness: No.

Chairman Aitchison: Why not?

The Witness: Because a man at Omaha lugged one of those things all the way into Chicago and asked me what it was. I looked at it and said, "It's a rough turned forging, Brother, and don't pay any more money than the iron and steel forging rate, Column 32½." He said, "That's what I came here for." He wouldn't even take it back, so I gave it to the Salvation Army for scrap.

Chairman Aitchison: Your point is, then, that the 32½ is all that has been paid?

The Witness: Yes, sir. As a matter of fact, he was not paying the charges at all. The man at Omaha was paying the charges.

Chairman Aitchison: Go ahead.

[fol. 4308] The Witness: On pages 20, 21 and 22, I have endeavored to show what would happen under Mr. Waring's proposal in Exhibit No. 145. The No. "145" should be inserted in the blank space on page 20, where reference is made to Witness Waring's exhibit.

Chairman Aitchison: Before you come to that, at the top of page 20 you make reference to the old unit system.

The Witness: Yes.

By Chairman Aitchison:

Q. Was that unit system as you recall it fully described in the Western Classification No. 51 case?

A. Yes. Commissioner Meyer thought very well of it, but we have clearly gotten away from it because if you make rates strictly on the unit basis you cannot relate competing commodities and there is no way in which you can relate, under the unit basis, the security of the different type packages. We found we had to get away from it.

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record. Proceed.

The Witness: A good example of that, Mr. Chairman, would be our ratings on gasoline engines or internal combustion engines, steam engines. They are all grouped. When the rating was made, it was first class in Western Territory. It is second class today, having been made uni- [fol. 4309] form when the rates third class and higher were unified.

Chairman Aitchison: That is, less than carload?

The Witness: Yes. Now, today, the airplane engine, the value of which runs up as high as $240,000 a carload, is moving at the second class rate, less than carload, and the Class A rate in carloads. Now, apply to the airplane engine the unit basis based on the value and the weight per cubic foot, and you would have about four times first class.

Chairman Aitchison: At the present time, then, you have airplane engines worth over $200,000 per carload on the same basis as a carload of agricultural implements?

The Witness: No. Agricultural implements are Class 40 by exception which the Commission made in the Western Class Rate Case, and if I remember correctly, it was made with the statement that Column 40 was made on account of the depressed condition of agriculture. For years and years agricultural implements and machinery were on the same basis, the Class A rate. Today there is a 5 per cent difference.

Q. 5 per cent of first class?

A. Yes.

Q. And more than that, of course, when applied to more than two articles?

A. Yes.

Q. Do I understand that you no longer recommend the [fol. 4310] unit system, the old unit system, or any variation of it?

A. I do not think you can do it and meet the requirements of business. I think you have got to take all factors into consideration which the Interstate Commerce in the past has prescribed for the making of a reasonable classification.

Q. Well, how about using it simply as a start, or using it with respect to typical articles in groups?

A. You still have got the weight variations in your typical articles and groups and you have a variation not only in their weights, but their values.

Q. I was presupposing that in some way the question of the security of packaging could be taken care of.

A. Well, that is true. There should be a differential between fragile articles in crates versus the same articles in boxes, completely covered and protected. Now, the article in the box may be a wholly different article than the article in the crate. That is particularly true in the chemical lines.

Chairman Aitchison: Just to digress—off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record.

The Witness: I would like to cite a good example, if the Commission please, with respect to this weight per cubic foot. Mr. Waring in his exhibit referred to boots and shoes, [fol. 4311] and he had an average weight and a very low value. I do not know where he got it. Boots and shoes run from 2¼ pounds per cubic foot up to 12. Now, there is no way to get an average, unless you weigh the complete movement and production all over the country. We make boots and shoes first class. If you took women's shoes and children's shoes and used the unit basis, the production from one plant might be entirely of women's shoes and you would get a unit that was far in excess of what it would be on men's shoes. Then again you would get the leather shoe with the wooden sole which is another factor, but of exceedingly small movement. It is used around dairies and is used in steel plants. Again you get another type of shoe that moves in very small volume, and that is a very heavy steel shoe which is designed to protect men's feet who work in heavy industries. After all, you have got to take a chance, look at the thing and say, "Well, first class." The shipper is satisfied with that and the shoe manufacturer is satisfied with that. This value may be higher, and this value lower. First class is reasonable for all of it. You cannot make the classification by laying down a yardstick and saying, "This is what it is going to be."

Chairman Aitchison: How would that density-weight formula work out if applied to baled and sacked wool?

The Witness: There you are up against it. In this East- [fol. 4312] ern Territory—take Ohio, for example—the

wools are very much lighter than our Western wools. They carry less dirt. They carry less grease.

Chairman Aitchison: And they are less dense in the package.

The Witness: They are, and they are practically all shipped in bags, 16,000 pounds for the ordinary 36-foot car; that is my recollection as to the maximum loading in this territory.

Chairman Aitchison: And they are much more valuable.

The Witness: That is true.

Chairman Aitchison: Because the wool is bought, as I recall it, on a scoured basis in Boston?

The Witness: I could not say as to that.

Chairman Aitchison: I see.

The Witness: Because there is a lot of washed wool that is shipped that is not considered scoured wool. It is not finished.

Chairman Aitchison: You have a different rate on scoured wool.

The Witness: Scoured wool is very light, especially as it is generally shipped, although I understand they are now shipping it with some degree of compression.

Chairman Aitchison: Wool in the grease would have a totally different value per cubic foot and density per cubic [fol. 4313] foot in Ohio from what it would have in the West, is that not true?

The Witness: That is true on the sacked wool, but when you come to compressed wool—and they are compressing a lot of it—you have an entirely different picture from the uncompressed, sacked wool.

By Chairman Aitchison:

Q. Have you ever followed it through enough to be able to tell us whether or not the application of a weight-density formula such as Mr. Waring suggested would not, in fact, make a higher rating on the sacked wool than on the baled?

A. Yes. It would make a very much higher rating on the sacked wool than the baled.

Q. What is the practice?

A. In the West our sacked wool and baled wool is rated the same less than carload. I am pretty sure of that, although I have not looked at it for a good many years. I am pretty sure that is correct.

Q. And fourth class, carloads, by and large?

A. Second class and fourth class in carloads. In Illinois we have alternate rates. In other words, there is wool produced East and West, and under our Illinois Agreement made with your body and the Illinois Commission, whichever is lower, they wanted both of them and we gave them to them. Scoured wool in bags or bales, not machine pressed, [fol. 4314] is 1¼; in machine pressed bales, compressed to less than 12 pounds, first class, and over 12 pounds first class. The only differential made there is in the carload ratings. The carload rating where it is compressed to 12 pounds or more per cubic foot is 16,000 pounds at third class, and those rates were established at the request of the Boston Wool Trade group.

Chairman Aitchison: Proceed, Mr. Fyfe.

The Witness: I understand that there has been some discussion of a proposal to establish or extend the Official Classification to the Missouri River and break up the Western Territory. I do not know whether the gentleman who suggested that went into this thing very far, to see where he was going to land, but let me say that all of the exceptions, and there are a lot of them, in Western Trunk Line Territory, are exceptions to the Western Classification, and the minute the Official Classification goes in there, those exceptions die. For example, burlap, gunny and jute bags are third class in Official. They are Column 55 in Western Territory. Take old wooden barrels, and there is a big movement of them right now, I might say, incidentally: They are Column 30, 20,000 pounds in Western Trunk Line Territory and Column 40, 18,000 pounds in Official Territory—that is by exception—and Column 45, 14,000 pounds, by exception. Another place where they would get hit—[fol. 4315] and they are using it to a great extent—is in the all-freight rates. The all-freight rates in Western Trunk Line Territory are 12,000 pounds at Column 75 and 25,000 pounds at 60.

Chairman Aitchison: How general is that in application?

The Witness: I beg your pardon?

By Chairman Aitchison:

Q. How general is the all-freight rate?

A. It applies throughout Western Trunk Line Territory, and they have corresponding exceptions in Southwestern Territory.

Q. But it is not provided for in the classification?

A. No. It is in the exceptions. There is 30,000 pounds at Column 40. I have not been able to find corresponding exceptions in Official Territory, but I do understand offhand that they have an all-commodity rate, at least between certain points, of third class, 30,000 pounds.

Chairman Aitchison: Proceed.

The Witness: Take mineral wool: we have an exception in Western Trunk Line Territory, 16,000 pounds, 37½ and 24,000 at 27½ in the East, and in C.F.A. Territory they have an exception, 24 and 30,000 pounds at Column 35. Take nursery stock: we have some exceedingly low rates on nursery stock which were made primarily to hold the business to the rails against the itinerant truckers. For a 40-foot car, 12,000 pounds, we have Column 40 in Western [fol. 4316] Trunk Line Territory, 20,000 pounds, Column 25, les than carload Column 55. Now, there are no exceptions in the Official Classification at all. Asparagus roots are third class, 24,000 pounds. All of the others are fourth class, 16,000 pounds or Column 45 at 20,00 pounds. Less than carload they are first and third classs as compared with 55 in Western Trunk Line. I could go on and point out dozens and dozens of those cases.

Now, let's get away from the exceptions and see what this is going to do with the class rates. In the West we have 2,326 fourth class ratings or Column 55. 31 of those ratings are rated third class in the East today in the Official Classification, one at Column 65, 9 at 60, 1,249 at R-26 which is uniform 55 with the West, 4 rated Column 55, 982 that are rated fourth class or Column 50, 3 rated Column 45 and 36 that are rated fifth class.

Com. Splawn: Do you regard bringing them together as very difficult, Mr. Fyfe?

The Witness: Yes, sir. I have always contended and the shipper contends that when he wants uniformity, he wants it downward and you have a riot if you try to make uniformity on any large scale and try to put things up. We tried to clean up a lot of these situations in 54 I. C. C., in the Consolidated Classification Case, but the Commission denied them all except where the change in rating was due [fol. 4317] to a new item or a packing regulation. Shippers do not want any advance in rates. If they can get uniformity, they want it downward.

Here is another serious question with this fourth class adjustment: a very large portion of the fourth class freight that moves less than carload in Western Territory under Column 45 or Column 55 is sugar, coffee, canned goods, wire and nails, fencing and the commodities which are moving into our territory in carloads and are jobbed out. The minute you reduce the differential between the carload and less than carload rates, you are going to crimp our jobbers, and we do not want them crimped and put out of business.

By Chairman Aitchison:

Q. Is the carload rate on the articles you mentioned usually fifth class?

A. I beg your pardon?

Q. Is the carload rate on the articles you mentioned usually fifth class?

A. No, sir, they are not. Iron and steel is 32½. Wire and nails is 32½. You are still reducing the spread, however, between the carload and less than carload rates.

Q. But that spread under the Western Classification is usually from fourth to fifth class, is it not?

A. Yes, generally speaking.

Chairman Aitchison: Go ahead.

The Witness: There is another angle to that fourth class [fol. 4318] rate. These low grade commodities do not move long distances. We have jobbing houses scattered every 50, 100 or 200 miles out through Western Territory, as you know, Mr. Chairman. Take the fourth class rate for Zone 1. It is 40 cents. In 17000 part 2 in the cost study that was made for two terminals, the figure was 27.3 cents per 100 pounds. At that time we did not have any pickup and delivery. Today we have got it, and the minimum cost is 5 cents per 100 pounds where the shipper delivers to us and the consignee picks up. If you add 10 cents as a minimum figure to that 7 cents, we find that we have got 3 cents per 100 pounds—I am speaking of a straight scale now, and not with the 148 increase—we have got 3 cents per 100 pounds for transporting a keg of nails for 100 pounds. We actually get a little more money than that because the minimum charge is 58 cents. So we get 19 cents. Under Zone 3 with the 27 and 10, 37 cents, you would have 13 cents—that is under the Zone 3 rates—for hauling that keg of nails 100 miles. If we have to go down to the Eastern scale as some

of these gentlemen have proposed, the fourth class rate for 100 miles in the C.F.A. scale is 31 cents. In other words, we would make pickup and delivery, say, and then pay the fellow for hauling the stuff or turning it over to us.

Chairman Aitchison: I want to ask you, Mr. Fyfe, while we are talking about it here, about a matter of history that [fol. 4319] I do not think has been gone into in this proceeding.

By Chairman Aitchison:

Q. Do you remember in 1918 when the Director General submitted to the public and to the State Commissions a report of the Interstate Commerce Commission with a request for investigation?

A. That was the Consolidated Classification Case.

Q. No. In addition to the Consolidated Classification Case. It involved certain proposed class scales for the Western and Southern Territories, but I think not for Official.

A. I am not familiar with that. I have no recollection of it.

Q. Do you recall that the proposal made by the Director General which was submitted to the appropriate authorities in the Southern states was a dual suggestion; one scale was predicated upon the continuance of the Southern Classification and the other on the extension of the Western Classification to cover Southern Classification Territory.

A. I am not familiar with that.

Chairman Aitchison: I see.

The Witness: That must have been handled by the Rate Committee.

Chairman Aitchison: I thought possibly you knew why the proposal was proposed.

The Witness: I would like to go just a little further, if I may, please, into some classes where we do not have any- [fol. 4320] thing to jibe up with what they have in the East. Take our Class B, carload class: we have 295 carload ratings, Class B or 32½. 80 of those items in the Official Classification are 5th class. 46 are 32½, the same as Western Territory. 230 of them are 6th class. 6 of them are Column 25. 4 of them are 50 per cent of first class. When you get down to Class D where we have 173, there are 22 of them in the Official Classification rated 5th class,

112 of them are 6th class or 27½, 22 of the items are Column 25, 12 are Column 22½ and only one is 20. In Class E with 121 ratings in the West, 2 of them are rated 37½ in Official, 8 are 35, 6 are 25, 95 are 22½ and 6 are 20. That gives you a pretty fair picture of the juggling that would have to be done in advancing or reducing or both to get a uniform classification.

Chairman Aitchison: Is that all, Mr. Fyfe?

The Witness: I think that practically covers it. The exhibit goes into the matter quite in detail, showing what would happen.

By Mr. Hughes:

Q. Is it your experience, Mr. Fyfe, that an individual shipper is more interested in the particular item in the Classification which relates to his shipments than he is as to the book in which it is to be found?

A. That is true. He is particularly interested in his rating as compared with competing commodities that bear a [fol. 4321] different name entirely, but are used for the same purpose. I might say, if the Commission please, that agricultural implements ratings in the three classifications, less than carload, are uniform.

Chairman Aitchison: Are what?

The Witness: Uniform. Those ratings were made across the table with the principal agricultural manufacturers in the United States. We have never had a request for a change except on the corn huskers, and that was on account of turning up some exceedingly low stuff. The classification Committees proposed to make a change, but when we got our heads together, we forgot about the double first class we wanted, and took all the corn huskers, the light and medium weights, and threw them into first class and held the carload rate at the standard carload basis that had governed in the past, although they would not load up to that minimum, but a large proportion of them were moved in mixed carloads with implements that would load. We have in the exceptions 3rd class, even, on a harrow set up. Any one who knows anything about a harrow set up knows that you cannot load anything on top of it or in conjunction with it, and it is dangerous for a man to handle and try to load.

Q. Have you anything further, Mr. Fyfe?

A. That is all.

Mr. Hughes: That is all, Mr. Chairman.

[fol. 4322] Chairman Aitchison: Is there any cross examination?

Mr. Bee: Yes.

Cross-examination.

By Mr. Bee:

Q. You said that you made a rate, first class, agreeable with the manufacturers.

A. Yes.

Q. Don't you think somebody asked for third class, in order to get the exception, third class?

A. No. I think the trucks made third class first of all, to try to take the business away from us. It is like the ice machinery rates. Ice machinery all over the United States is second class, but in Western Trunk Line Territory east of the Missouri River it is third class because it was to meet truck competition. The trucks wanted the return loads. That is the only reason for reducing the rate.

Q. You mean no shipper asked the railroads to make third class exceptions?

A. Oh, the shipper asked us after he got to trucking, to put it in the classification; he wanted it made general.

Mr. Bee: That is all.

Chairman Aitchison: If this cross examination is going to continue much longer, we will suspend until tomorrow morning.

Mr. Bee: That is all I have.

Mr. McCollester: I have just one question, Mr. Chair-

[fols. 4323-4324] man.

Chairman Aitchison: Very well.

By Mr. McCollester:

Q. Mr. Fyfe, is it not a fact that for the most part the ratings in the several classifications as they now exist represent the results of studies by the three Classification Committees on the basis of data submitted to them as to the characteristics of the numerous commodities rated and to a considerable extent conferences with or hearings in which the shippers have appeared before the Committees?

A. That is true, and a very large portion of the Classification is Interstate Commerce Commission made. That is especially true as to Western Territory.

Mr. McCollester: That is all.

Mr. Hughes: Let us assume——

Chairman Aitchison: Just a minute, please, Mr. Hughes.

Mr. Hughes: I beg your pardon?

Chairman Aitchison: At this time we will suspend until 9 o'clock tomorrow morning.

(A 5:30 o'clock P. M. adjournment taken to 9 o'clock A. M. the next day, being, November 27, 1942.)

[fol. 4325] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 28300

CLASS RATE INVESTIGATION, 1939

Docket No. 28310

CONSOLIDATED FREIGHT CLASSIFICATION

Hotel Deshler,
Columbus, Ohio,
November 27, 1942.

Met, pursuant to adjournment, at 9 o'clock a. m.

Before: Division-2 of the Commission: Hon. Clyde B. Aitchison, Chairman of the Commission, presiding. Hon. Walter M. W. Splawn, Commissioner, Hon. J. Haden Alldredge, Commissioner, and a Cooperating Committee of the National Association of Railway & Utilities Commissioners represented by Mr. John J. Murphy, South Dakota Public Utilities Commission; Mr. George McConnaughy, Public Utilities Commission of Ohio; and Mr. W. H. Scott, South Carolina Service Commission.

Present: Paul O. Carter, Examiner, W. J. Koebel, Examiner, T. Leo Haden, Examiner.

Appearances: As heretobefore noted.

[fol. 4326] PROCEEDINGS

Chairman Aitchison: Shall we be in order. It has been requested that the following corrections be made in Exhibit

152: The word "net" appearing in line 1, page K-29, should be "gross", and "1938" appearing in the third line on page P-53, should be "1928." Mr. Rives, you may proceed.

R. C. FYFE resumed:

Cross-examination (Cont'd).

By Mr. Rives:

Mr. Fyfe, will you refer to page 20 of your Exhibit No. 190, please.

A. 20?

Q. Yes.

A. Yes, sir.

Q. And will you illustrate to me how the unit figure of 46.63 was determined?

A. As I explained in my direct testimony at the hearing at Indianapolis, those figures were arrived at, as I understand it, by Mr. J. T. Ripley by taking the then items in the classification, taking the weights per cubic foot and the values per pound, which they had in their files and then grouping them, to see where they would fall; and the figure shown on page 20 of this exhibit was the unit which was the result, so I understand, of that investigation.

Q. Then would a commodity occupying, for example, 20 [fol. 4327] cubic feet per hundred pounds, and having a value of $26 per hundred pounds, fall into double first class?

A. Yes, sir, that is correct, regardless of liability to damage, the method of packing, or anything else.

Q. Was that classification modified by any other considerations than those at all, if you know?

A. That I do not know, because that was before my time. I first tied up with this classification work in 1908, on the Uniform Committee, dealing with uniform descriptions, minimum weights and rules, but that Committee had nothing to do with ratings. My first work as Chairman of the Classification Committee was started in 1912, and after the trial of I. & S. 76, we absolutely discarded the unit basis, or attempting to figure units.

Q. Do I correctly understand, then, from your previous testimony, Mr. Fyfe, that no consideration at all was given to packing requirements, liability to damage, or classifica-

tion factors besides value and density, computed upon a mathematical basis, as you have indicated?

A. In the original units?

Q. Yes.

A. Well, that I do not know. As I stated before, that was all done before my time.

Q. I see.

A. If you go back to the old classifications, back in those [fol. 4328] days, you will find that they were pretty nearly devoid of packing regulations. That was one thing that the Committee on Uniform Classification, in 1908, was instructed to do,—provide for specific packing regulations, on account of the claim situation that existed back there at that time. Now, it was clear, from that situation, that, little or no consideration was being given in the classification to packing regulations. Going back in the old files, clear back to 1895, we can find petitions where they showed that the goods were packed in boxes, or in crates, for certain specific purposes; but going away back in the old classifications, there were no packing regulations included at all for many items.

Q. In other words, then, Mr. Fyfe, although you had no specific experience predating your membership on the Committee, to which you have referred, in 1907, I believe, it is your opinion, from your examination of the previous classifications, that no consideration was given to factors other than value and density; is that correct?

A. I am afraid that there was very little consideration given to them.

Q. All right.

A. Now in those days, let me point out, the Classification Committee was differently constituted from what it is at the present time. It consisted of about 45 member [fol. 4329] lines, with two meetings a year, and a big hurrah at each meeting, with a lot of entertainment; and the big shipper usually landed at the meeting with the necessary votes on his proposition in his pocket. The pressure of big business pretty nearly made the classification. That situation does not exist at the present time. Now every shipper gets proper treatment from the Classification Committee, regardless of whether he has a big movement, or a little movement.

Chairman Aitchison: Well, there is testimony in this record, Mr. Fyfe, to the effect that certain shippers at

least prefer to deal with the executives of the railroads, because they consider the Classification Committee to be too hard boiled to properly consider the needs of commerce.

The Witness: The Classification Committees are not hard boiled, Mr. Commissioner. We sit across the table from the shippers, and argue matters out with them, and if we cannot convince a shipper that what he is asking for is wrong, and a compromise in between cannot be reached, and we must deny the request of the shipper——

Chairman Aitchison: Then he takes the matter up with the railroad executives, and gets an exception to the classification; is that the situation?

The Witness: No, he does not take the matter up with the railroad executives, Mr. Chairman. He goes to some line that is favorable to him, and tries to get an exception, [fol. 4330] having the idea in mind, of course, in so doing that the pressure of big business, or alleged truck competition, or the statement that he is going into the trucking business himself, may influence that line to try to put something over for him. The majority of the exceptions that are in now less than carload in Western Territory,—and that is what I am particularly interested in keeping out of the Classification—have been the result of pressure from big shippers, or motor truck competition. For example, flavoring syrups are an exception in the Southwest and Western Trunk Line Territory, at Column-42. That is absolutely ridiculous. The pressure for that came from one of the biggest manufacturers of flavoring syrups in the United States, one that makes a product worth about $1.50 to $1.75 per gallon, while the highly concentrated syrups that run into the different flavors, are worth as high as $7.50 per gallon. That ought to be stopped, because that kind of business is not paying its reasonable proportion of the transportation burden of this country. I would like to say further, Mr. Chairman, in connection with this classification situation, that in our dealings with the shippers we have public hearings, where we have a verbatim record made of the proceedings. All of the shippers who are interested in a particular subject, sit in the hearing at one time. There are no star chamber sessions. The Classification has been largely made by the shippers, with the exception of the unification which was made [fol. 4331] approximately four years ago, when the ratings third class and higher were unified,—which was just done

arbitrarily; and of course the shippers profited by it, because all of the changes were in the nature of reductions. Now we think that we ought to continue that way. It is entirely satisfactory, as far as I know, from the Western standpoint especially. The Western Classification has a greater territory to cover, has a wider expanse of territory to cover, covering practically the United States, into the Western Territory, but we have not got any serious complaint. Now my thought there is that the shippers know that they can come to the Classification Committee, and sit down across the table and talk things over. They know that so far as the Classification Committee is concerned, it is no use for them to go to any one particular railroad, and try to have pressure put on the Classification Committee, because the railroad will say, "No. That is a matter that we have left in the hands of the Classification Committee. Iron your difficulties out with the Committee." That has worked for 30 years, now, without any general complaint.

By Chairman Aitchison:

Q. Mr. Fyfe, have you given any consideration to what steps could be taken, as a matter of classification, which would tend to minimize the growth of the all-commodity rates?

A. No, Mr. Chairman, that matter has not as yet been [fol.4332] before the Classification Committee.

Q. Do you have any opinion in connection with that matter which you would desire to express at this time?

A. Well, I have never gone into the all-commodity rate situation. The all-commodity rate situation, of course, breaks down a great many ratings, especially on the higher classes, the higher-class and the lighter-loading freight, especially where the freight forwarder may take carload freight, rated second and third class, and if he has a heavy loading car, he can take the light and bulky freight and load it up on top, and get Column-46, with a 30,000 or 40,000 pound minimum, and it is breaking the carload rate from third class or fourth class down to Column-46.

Q. Would the revision of Rule 10, as far as it applies to less than carload, be of any service in that regard?

A. A revision of Rule 10 in Western Territory to the basis in effect in the East, which has a separate carload

rating on each commodity in the car, with the highest minimum weight applicable, and the deficit, if any, being made up on the higher-rated commodities, would make a serious reduction in the earnings of the Western carriers under their all-commodity rates. It would enable the freight forwarders to take freight which at the present time they do not take, because the spread between carload and less than carload, the carload and less than carload rate, is not [fol. 4333] sufficient to give them an opportunity to work. I have taken specific cars moving under all-commodity rates, and applied the separate carload ratings in the classification, or in the exceptions; and to Houston, Texas, for example, I found one car where Rule 10 in Official Territory would reduce the charges under the all-commodity rate $110. Then there was another car that I checked, to Denver, Colorado, where the reduction would have been about $85. Now if the freight forwarder could put into those cars the lower carload rated freight that he does not get at the present time, except where he needs something to make up tonnage, it would mean still further reductions.

Q. You do not have, then, any suggestion to make, as to how the tendency toward the all-commodity rate can be minimized?

A. Personally I think that all-commodity rates ought to be confined to mixed carload shipments. I do not think that anybody ought to be able to take a full carload, and put an all-commodity rate on it, or take what is practically a full carload of a commodity and throw two or three hundred pounds of something else in there for the purpose of breaking down the rating. I think that the amount of any one commodity in the car should perhaps be limited, to prevent that sort of manipulation of the freight carload rating.

Q. Well, is that not done in a good many of the all-commodity rate tariffs?

[fol. 4334] A. That I do not know, Mr. Chairman. I am not familiar with that.

Chairman Aitchison: Proceed.

Mr. Healy: If the Commission please, if I may suggest, as the result of the findings of the Commission in the Freight Forwarding Investigation, the practice which Mr. Fyfe has described cannot be carried on now, in accordance

with those findings, and the rules published in compliance therewith.

By Mr. Rives:

Q. Mr. Fyfe, what are the factors of classification to which you give the greatest weight?

A. Well, I could not say that we give the greatest weight to any one particular factor. The weight per cubic foot is a very important factor, but all of the balance of the factors are likewise important, of course.

Q. Is the value of the article a relatively important factor?

A. We give consideration to the value of the article, but not to the extent that the old unit basis gave consideration to it, and that was one reason for taking out the unit basis. You cannot dewell entirely upon value per pound or weight per cubic foot. If you dwelt entirely on those two factors alone, there would be a great many commodities upon which the ratings would be so high it would be practically impossible to move them.

[fol. 4335] Q. Do you modify the effect of those two factors by other factors?

A. Oh, we modify all through the book, on everything, to meet commercial conditions and to make rates that we think will move the traffic.

Q. In other words, you give consideration to all of the factors which you have mentioned in your Indianapolis testimony; is that correct?

A. Yes, sir, that is correct; we give consideration to all of those factors, and any other factors as well that the shipper may present at the time.

Q. In view of your statement, Mr. Fyfe, concerning the flavoring syrup exception rating, I wonder if you would state what your criticism is of the application of the Waring formula to flavoring syrups. You have included that on page 21 of your exhibit.

A. Well, I am not just sure. Mr. Waring, on page 13 of his formula, showing how it would work out, says that the value is 15 cents per pound. I will say that Mr. Waring is exceedingly low, taking all flavoring syrups. That indicates that he had Coca-Cola, or Pepsi-Cola, or some of the cheaper flavoring syrups, in mind. Under Mr. Waring's low figures, he would have a formula basis of 58, but he

considers flavoring syrups as a luxury, and therefore he would make it 67. Now the Interstate Commerce Commis-
[fol. 4336] sion in I. C. C. 107, page 355, found that third class was a reasonable rating, and the Commision had a very complete record before it at that time. Now why should that rating be changed, without a complete record being before the Interstate Commerce Commission?

Q. What is the relation of third class to first class; 70 per cent?

A. Yes, sir. Now flavoring syrup at Column-42, and molasses at Column-55,—molasses being a very cheap commodity as compared with flavoring syrup—shows how ridiculous the flavoring syrup ratings are.

Q. That is the present adjustment, is it?

A. Yes.

Q. That is——

A. I am not talking about the exceptions.

Q. I understand. Now on page 22 of your exhibit, Mr. Fyfe, you include the item of Bakery Goods, which you state is first class under the Waring formula.

A. Well, I checked up on that, but I do not have that memorandum attached to my papers here, correcting that situation.

Q. That can be eliminated then?

A. Yes, sir.

Q. The rating on Bakery Goods, as shown under the Waring formula, should be 70, then, just as it is now; is
[fol. 4337] that correct?

A. Yes, sir, but for hats and caps, where you make it four and a half times first class, the Interstate Commerce Commission, in 148 I. C. C. 259, fixed a reasonable rating of double first class, and that was on the lightest-loading hats and caps, packed in fibreboard boxes.

Chairman Aitchison: May I interrupt, before I forget it.

By Chairman Aitchison:

Q. When you answered the question a few moments ago, Mr. Fyfe, with respect to the elements which are considered in making a classification, did I correctly understand you to say that you take into account competition, first, with other carriers, and second, as between markets or producers?

A. No, sir. When I refer to competition, I mean competition between competing commodities. In other words, I mean one commodity versus another commodity, commodities that might be used for the same purpose. When you get into the canned foodstuffs field, for instance, you have got your canned tomatoes, canned corn, and beans, low in value, and you have also got your asparagus tips, and your artichoke hearts, and the high-priced stuff; but they are all in competition, because they are all foodstuffs.

Q. I just wanted to clear that up.

A. Yes.

[fol. 4338] Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Proceed.

By Mr. Rives:

Q. Mr. Fyfe, have you checked Mr. Waring's exhibit concerning the rating which would be produced under the proposed formula on rock wool batts?

A. No, sir, I did not go back and check it. As a matter of fact, however, I question Mr. Waring's figures on rock wool batts, as to the weight per cubic foot and the value. We have some of that stuff that is exceedingly light. We have other kinds of it—rock wool batts—which have heavy insulating paper on both sides, that will run up as high as seven pounds per cubic foot. We have some rock wool batts that are not really insulating material at all, but that are used for filtering purposes. That is very fluffy stuff, and I think that is what Mr. Waring got hold of. But in any event, all of these insulating materials are in direct competition one with the other, and you have got to keep them pretty close together, in order to let them compete.

Q. But in any event, Mr. Fyfe, you did not determine whether or not, under the application of his formula, 295 was the correct rating, did you?

A. No, sir, I did not. As I say, I did not attempt to check that.

[fol. 4339] Mr. Rives: If the Commission please, I would like to state for the record at this point that I have checked the exhibit, and, according to my check, the rating should

be 121, instead of 295. I will have Mr. Waring check that, and advise as to the correct rating.

The Witness: Well, if you were to raise rock wool batts to 1¼ times first class, which would be equal to your 121, you would have the cost, the transportation cost, between Chicago and Kansas City, or between Chicago and Denver, for example, practically equal to the value of the rock wool batts, and then they would not move. In other words, there is a limit to how much you can put on some of these materials which are of low value.

By Mr. Rives:

Q. You are figuring that under the present rate scale, I take it; is that correct?

A. Yes.

Mr. Rives: Thank you.

Chairman Aitchison: Mr. Wagner.

Mr. Wagner: I have just a few questions.

By Mr. Wagner:

Q. Mr. Fyfe, in classifying an article, do you take into consideration the rates as such?

A. No.

Q. Ultimately, however, that is in your mind, is it not?

A. Oh, we might check up to see what revenue per car they would give us.

[fol. 4340] Q. When you classify an article you have in mind, of course, the percentage relation, one class as compared with another, do you not?

A. Oh, yes.

Q. Now, Mr. Fyfe, will you tell us what part of the United States comes within your jurisdiction?

A. Well, primarily, the territory on and west—or at and west of Chicago, although the Western Classification has application, you might say, over the entire United States.

Q. In other words, that applies west of Chicago and the Mississippi River, and in Transcontinental Territory, roughly speaking?

A. Yes, sir, and then it applies up into Canada, also.

Q. Yes.

A. From the States.

Q. Yes. You have nothing to do with the fixing of percentages of first class, have you, Mr. Fyfe?

A. No, sir.

Q. All that you are concerned with are the ratings as you have them; that is correct, is it not?

A. Yes, sir, that is true,—as they have been set by the Commission.

By Chairman Aitchison:

Q. But you do have to do with fixing percentages of first class in those cases where percentages are stated, as such, in the Classification, do you not?

[fol. 4341] A. There is only one case in the Classification, Mr. Chairman, where the Classification Committee made rates based upon a column basis of 40 per cent,—in that particular case—and that was on electric storage batteries; and that was largely made to meet the competitive situation.

By Mr. Wagner:

Q. In the West?

A. Yes, sir. In the West we do not put any percentage columns in the Classification, except what have been prescribed by the Interstate Commerce Commission.

Q. Now, Mr. Fyfe, generally speaking, for the purpose of my question, we will call the Western Group, the area embraced by the decisions of the Commission growing out of the 17000 part 2 proceeding, which I believe would go over, roughly speaking, to Great Falls, Montana, Utah, and the southeastern corner of New Mexico. Is that correct?

A. 17000 part 2?

Q. The outgrowth of the percentages there fixed.

A. I do not know at the moment, positively, just what territory was involved there. I think that you are perhaps about right, however.

Q. I am not referring now, Mr. Fyfe, to 17000 part 2, but to subsequent cases, like the Great Falls Case, out of Montana, and so forth.

A. I am not familiar with those cases.

Q. Well, in any event, the territory west of the line that I [fol. 4342] have indicated, has a different series of percentages of first class; that is correct, is it not?

A. I think you are correct about that, yes, sir, and that started, if I recall correctly, with the Arizona Grocery Case.

Chairman Aitchison: Oh, no; it started away back.

The Witness: Well, that was my first knowledge of it, at any rate, in connection with the Arizona Grocery Case.

Chairman Aitchison: The Great Northern and the Northern Pacific had that percentage relation even before that.

The Witness: Well, I do not know.

Chairman Aitchison: It was a carrier-made percentage in the first instance.

The Witness: Well, the first time that I came into contact with it was in the Arizona Grocery Case, in looking up those relationships.

By Mr. Wagner:

Q. Is it correct to say, Mr. Fyfe, that the transcontinental percentages are not identical, in the case of either of these groups, to the percentages that you have been referring to in all respects?

A. Why, I should say that they are not, but I have not checked them over. Do you mean, that is, the through overhead class rates?

Q. Yes. Are they more or less uniform in percentage, the transcontinental rates?

[fol. 4343] A. I do not know.

Q. Although not fixed by the Commission?

A. I do not know. I have never checked them.

Q. Will you take my word for it, then, if you do not know—although I am sure you do know—that in the Western group, as I have defined it, fifth class is 37.5 per cent, and in Mountain-Pacific and Transcontinental it is 50 per cent?

A. Yes.

Q. Now assume——

A. Just a moment.

Q. Yes?

A. Well, that is right, yes; 50 per cent.

Q. And if I am not mistaken, there is no rating in the Western group, and Mountain-Pacific, lower than third class, where the percentage is the same, except C; it that correct?

A. Well, I would not be sure about that.
Q. All right.
A. Not without checking it.

Mr. Wagner: I think the record will show.

By Chairman Aitchison:

Q. What is E?
A. Pardon me?
Q. How about E?
A. I think that Class E out there is 20 per cent.

Mr. Wagner: D in Mountain-Pacific Territory is 25, and in Western-Southwestern, 22.5.

[fol. 4344] By Mr. Wagner:

Q. Now assume that you have a less than carload rating on a given commodity of third class,—and let us assume that it is a new commodity—and that third class rating, which is 70 per cent more or less uniformly, is the present less than carload rating; and you want to fix a carload rating for the commodity. To jump two classes, you would have 37.5 per cent in the Western group and 50 per cent in Transcontinental, and also in Mountain-Pacific. What factors would you take into consideration in determining whether or not that should be fifth class as such, with the varying percentages, or whether you would put in a column percentage, in order to get a uniformity?

A. We would put in fifth class.

Q. Fifth class?

A. Yes, sir, because, generally speaking, the corresponding commodities would be rated fifth class, and perhaps a lot of the commodities that the new commodity was going to hook up with, would be fifth class. We would take those factors into consideration. We try to make a reasonable differential in the classification between a less than carload movement and a carload movement.

Q. Well now, let us assume that the carload traffic on certain competitive articles is moving on an exception, we will say, 40 per cent of first class. Could you take care of that in any other way in your classification?

[fol. 4345] A. We have taken care of those which were prescribed by the Commission, in the classification.

Q. How could you approximate that 40 per cent, or anything near 40 per cent, or anything near a uniform percentage throughout your territory, by the Classification proper?

A. We would put 40 per cent in the Classification, and we would require the lines on the Coast to establish a 40 per cent column in their tariffs.

Q. So that you would have to break away from your standard classification in Mountain-Pacific Territory, would you not?

A. The lines out there take care of those things.

Chairman Aitchison: Class B.

The Witness: Well, it may be Class B, but they have published some column rates out there.

Chairman Aitchison: Class B, 40 per cent.

The Witness: Yes, against 32.5 back in this territory.

By Mr. Wagner:

Q. So that if you would use your standard classes, the carload rating in Western Trunk Line Territory would be about 55 per cent of the less than carload, and Transcontinental and Mountain-Pacific would be about 72 per cent, would it not?

A. Well, I have not figured it out. However, if you say so, Mr. Wagner, I will take your word for it.

Mr. Wagner: That is all.

[fol. 4346] Mr. Eshelman: I would like to ask just one question, please.

By Mr. Eshelman:

Q. Mr. Fyfe, in responding to Mr. Wagner, as to the coverage of the Western Classification, I understood you to say something about Transcontinental Territory. Is it not also a fact that the Western Classification applies westbound from Official and Southern Territories as well?

A. Oh, yes. They are the only parts of the territory where there is a non-application of the Western Classification, eastbound into Official Territory, and on the southbound movement from Western Trunk Line Territory into Southern Territory, where the Southern Classification applies. Now that more or less complicates things.

By Mr. Wagner:

Q. And from the East to the Western group, as I have defined it, the Commission-prescribed percentages apply, and to Transcontinental, the other percentages apply.

I think so.

Redirect examination.

By Mr. Hughes:

Q. Mr. Fyfe, does the Western Classification apply to a wider expanse of territory than any other of the three major classifications?

A. Yes, sir, it does. Now I would like to correct one statement, if I may, Mr. Chairman, with regard to Mr. Boyle's statement about the agreement for the handling of [fol. 4347] interterritorial matters. It is true that there is such an agreement or understanding that where the Classification Committees cannot agree, they can go to the Executive Committees, that one territory can protest the action of the others. The facts are, however, that since that understanding was arrived at, which was in 1936, my recollection is that there has never been a protest, that each territory has proceeded to do as it pleased in an emergency. We have had cases where we said to the Southern Committee, or to the Eastern Committee, "We do not like what you are doing because you are going to complicate our situation, and we would like to have you take care of this, if you want to do it within your own territory, in your exceptions, and not mess up our territory"; but as I say, there has never been any blocking, any absolute blocking of any territory by going and appealing to the Executive Committee. As far as the Western Committee is concerned, we are footloose to do what is necessary to maintain the situation in our territory; and the other committees have done the same thing, regardless of any agreement.

Q. Mr. Fyfe, is the Western Classification Committee confronted with many questions growing out of the present war?

A. Yes, sir, it is. I am putting in about 90 per cent of my time, right at the present time, in connection with [fol. 4348] handling and straightening out war business, and matters in connection with war business, and finding substitute packing materials,—which is a very serious question just at this time.

Q. That is just what I was coming to.

A. The steel packages and the metal cans, have gone out. Just within the last few days I have authorized the shipment of up to 200 pounds of pottery, chinaware, in a fibreboard box, a very superior box, that I think will carry very well. We have put out test shipment permits to let the man move his Christmas supplies. He formerly used wire-bound boxes, but they had to be cut out because they could not get the wire, and then the box shook people—he happened to be located on the Pacific Coast—said, "We are very sorry, but we cannot give you any more box shooks", and they couldn't get any nails, so we had to find something else. We conceived of this fibreboard box item, and that business is now moving, and moving freely in carloads, and being distributed in less than carload lots. It is moving right out of this town here, and being warehoused in Los Angeles, California.

Q. Could it be accurately stated, then, Mr. Fyfe, that you are now in a period of almost constant modification of your packing rules?

A. Yes, sir, that is true. Of course, we develop what a [fol. 4349] package will do, on test shipment permits.

Q. And you have no way of forecasting what the effect of the war conditions may be, on future packing requirements, have you?

A. Well, my own opinion is that a lot of these modifications of the packing requirements that have been developed, are here to stay. I found, for instance, with respect to the shipment of frozen eggs, liquid eggs frozen, that are going into the bakery trade, going into the dryers, that prior to the war, well, I will say, prior to about six months ago, they moved entirely in thirty-pound tin cans. There is not a single pound of those eggs moving in tin cans at the present time. They are all moving in either a cellophane bag in a fibreboard box, or in a waterproof paper bag in a fibreboard box, or in a fibreboard can with a corrugated reinforced lining outside, or in a box with a liner that is made of non-test—well, I could not just recall the name of the paper, but it is laminated with a nonodorous asphaltum. Now these packages are all cheaper than the thirty-pound tin cans were. They are destroyed after their initial use. In the handling of liquid or frozen eggs, it is very essential to keep bacteria away from them. If the air gets to them, and they start to thaw out, the bacteria count gets up above 40,000,

and then the Pure Food Department will condemn them. [fol. 4350] These new packages are standing up under test even better than the old tin can with the slip cover, which used to come off.

Mr. Hughes: I believe that is all.

A. (Continuing): We are experimenting at the present time, trying to find a drum to put paint in, instead of in cans. Instead of using 5-gallon steel drums for paint, we are shipping 5 gallons of paint in laminated wood drums. I think that the difficulty is—not that the drum will not hold it, but to get a seal on the interior of the drum, head and bottom, that will hold the oil in the paint.

By Mr. Hughes:

Q. You are confronted at this time, then, with the need for an almost constant modification of your packing rules?

A. Yes, sir, and that is one of the reasons why we asked the Commission for a wide open Sixth Section permission to let us change the packing regulations, to let us meet this war situation, on one day's notice; and the Commission granted it.

Mr. Hughes: I believe that is all I have with the witness, Mr. Chairman.

Chairman Aitchison: Are there any further questions of Mr. Fyfe? (No response.) Apparently not. Thank you, Mr. Fyfe; you are excused.

The Witness: Thank you.

(Witness excused.)

[fol. 4351] Chairman Aitchison: Mr. Plunkett.

Mr. Plunkett: Recall Mr. Vivian.

GLENN F. VIVIAN recalled:

Direct examination.

By Mr. Plunkett:

Q. You are the same Mr. Glenn F. Vivian who previously testified at the Indianapolis hearing in this proceeding, are you?

A. Yes, sir.

Q. Mr. Vivian, have you prepared an exhibit in rebuttal of the testimony and exhibits of various witnesses that have been presented here?

A. I have.

Mr. Plunkett: If the Commission please, may Mr. Vivian's Exhibit be identified as Exhibit No. 191.

(Exhibit No. 191, Witness Vivian, marked for identification.)

The Witness: This exhibit consists of several subjects, incorporated in three sections, which have been entitled Sections I, II and III. A portion of Section III, pages 1 to 4, inclusive, has been reproduced as a wall chart.

By Mr. Plunkett:

Q. In that reproduction, those pages of the exhibit have been pasted together, on solid paper, have they?

A. Yes, sir.

[fol. 4352] Q. But they are identically the same as the pages in the exhibit itself.

A. Yes.

Q. Will you please explain the first section of this exhibit.

A. Section I of this exhibit is designed to rebut statements and exhibits of several witnesses who have maintained that certain sections of the country are being discriminated against and industrially retarded by the Class Rate Structure.

Page I is a map of the United States showing approximately the Western Trunk Line Territory, the Southwestern Territory, the Eastern District, the Southern Region, and the Pocahontas Region. On this map is shown by districts, territories or regions the increase or decrease in the number of manufacturing establishments 1939 over or under 1921.

The red shading indicates decrease and the black shading, increase. Thus three territories show a decrease, namely: the Eastern District, 13.14 per cent; the Western Trunk Line Territory, 12.08 per cent; and Pocahontas Region, 9.98 per cent, while two territories show an increase, namely; the Southwestern Territory, 23.65 per cent and the Southern Region, 10.15 per cent.

Turning to page 2, the same story is told in a different [fol. 4353] manner. Industrial production reached the bottom of the depression in 1933. Using this low, we measure, on page 2, the extent of recovery in 1939 from 1933 by the number of manufacturing establishments. Western Trunk Line shows the smallest per cent of increase, Eastern District next, Pocahontas third, Southwest fourth and Southern Region the greatest. In other words, the South and the Southwest have made the greatest recovery from the depression low. The figures supporting these maps are found on pages 3 and 4.

Attention should be called to the figures on page 4 showing under the percentage comparison 1933 under 1921 the extent of the depression in each of the groups of states. This shows that Western Trunk Line and Eastern District suffered more from the depression than did the Southwest and the South.

At this point I wish to call attention to the footnote at the bottom of page 4, "Based on details on page," now followed by a blank. After the word "page" insert the figure 3. Page 6 is a map of the Southern Region and Southwest Territory States. This shows 101 major additions to industries listed on page 5 in these states during the year 1940 as reported in the "Blue Book of Southern Progress", year 1941. Some of these are additions or expansions, some entirely new industries. A study of recent issues of the "Manufacturers Record" indicates that the same rapid growth [fol. 4354] has continued steadily since 1940 in both the South and Southwest.

As will be seen on page 7, there have developed many imposing industries in the South and Southwest. These industries, 43 in number, are among the largest in the United States, 36 are the largest in the world. Comparable information is not available for the other states.

Part 8 is a graphic showing of Index Numbers of Industrial Production, Durable and Non-Durable Manufacturers and Railroad Revenue Tons One Mile with a 20-year average for each. Industrial production is represented by the red line, Durable Manufacture- by the solid black line, Non-Durable Manufactures by the broken black line and Revenue Ton Miles by the green line.

It will be noted that during periods of business confidence Durable Manufactures are relatively higher than

Non-Durable, while the reverse is true during periods of depression.

It is not mere accident that Durable Manufactures surpassed Non-Durable in the latter part of 1939. The invasion of Poland and the beginning of the Second World War gave impetus to business and immediately brought about an improvement in business conditions generally. The multiplication of war orders pushed durable manufacture up until it now stands higher than at any previous [fol. 4355] period under review. It should be remembered that much of these durable goods are of a military nature and, unlike durable goods of a more normal period, do not contribute to national wealth but rather absorb and destroy wealth.

It will be noted that from 1938 to the middle of 1942 there are shown on this chart a few of the world-shaking events. These are placed in their approximate chronological position and appear to give reason to the fluctuations of the various lines as shown.

In the early part of 1939 Industrial Production, Manufacture of Durable and Non Durable Goods and Revenue Tons One Mile all reflected the recession of 1938. From September on the year is marked by the activities of the United Nations preparing to meet the threat of the Axis Powers. The enactment by Congress of the cash and carry law replacing the embargo on war goods to belligerent nations and the Lend Lease Law and the disastrous course of the war in Poland all had their effect in pushing up the production of durable goods so that the conditions of the latter part of 1939 became more and more pronounced with the passage of time.

Supporting and amplifying the conditions shown on page 8 we turn to the three charts on page 11. These show Employment and Payrolls for All Manufacture, Durable Manufacturing and Non Durable Manufacturing. In each case the black line represents Employment and the red line, Payrolls. [fol. 4356] Comparing the second and last charts on this page, one will readily notice the effect on payrolls of the scramble for skilled workmen in the Durable Goods Industries. Had it been practical to make the scales on the three charts the same, the runaway effect of Durable Goods Employment and Payrolls would be much more evident. During the 1930's very few skilled workmen were trained. This brought about a shortage in the latter part of 1939, the effect

of which is very noticeable in the direction of the payrolls versus employment lines in that year.

Q. Taking up Section II, please proceed in your own way to describe this section.

A. This section contains various types of data pertaining to rail carriers and shows comparisons of the composition of traffic in the different rate territories as well as districts and regions. Pages 1 to 13 show charts and supporting data of contrasting tonnage originating in each of the respective districts and regions. These have been prepared similarly to pages 1 to 17 of Exhibit 66, wherein was shown comparison of the composition of traffic through the medium of revenue tons carried. It will be noted by comparing the study in this exhibit of originating tonnage with the composition of traffic in Exhibit 66 of revenue tons carried that similar contrasts in composition of traffic exist when using originating tonnage as when using tons carried. The dif- [fol. 4357] ferences are merely a matter of degree.

On pages 14 to 20, there has been shown the composition of traffic and the contract between the regions and districts for originating and terminating tonnage combined for the year 1939, which data is employed by Dr. Edwards. This, again, reveals a similar situation to the tons carried as well as to the originating tonnage by itself.

At this time I wish to call attention to the footnotes at the bottom of each of the pages, from 6 to 11, of this section. The patricular note that I have reference to is that marked with an asterisk—*—which reads "First Quarter of I. C. C. Report of Commodity Statistics". The latter part of that note should be stricken, on each of those pages, from 6 to 11, inclusive. The note should simply read "First Quarter."

Q. Everything following the words "First Quarter" in the note should be stricken, should it?

A. Yes, sir.

Q. All right.

A. The primary weakness in the use of originating and terminating tonnage is the fact that overhead tonnage is ignored and, in territories such as Western Trunk Line and on railroads which have a large volume of overhead tonnage, the omission of this overhead tonnage is too important to be ignored.

[fol. 4358] Q. You are now referring to Dr. Edwards' Exhibit No. 10, are you, Mr. Vivian?

A. Yes, sir.

Q. Continue.

A. It must be borne in mind that this overhead tonnage is handled in the same trains as the originating and terminating tonnage. The next page is a map showing with dots the points at which classified yards exist on 20 Western railroads or systems.

Q. Page 21?

A. Page 21, yes, sir. These roads are the ones that reported cost data in compliance with the Commission's Order in I. C. C. Docket 28190, New Passenger Automobiles in interstate commerce. The red dots (173 in number) are the points studied by these same carriers for carrier terminal switching, interchange, intertrain and intratrain switching. Carrier terminal switching points studied and at which switch engines were maintained are 74 in number. The points (645 in number) having black dots are potential carrier terminal switching points, but were not studied.

Q. Some of them are actual as well as potential, are they not?

A. Yes, sir. More than likely all of them are actual, but I was unable to determine that until I had the information available.

[fol. 4359] Chairman Aitchison: I wonder how terminals on the Pacific Coast have been treated? I notice that Portland and Astoria are not shown.

The Witness: Well, Mr. Chairman, we have reported only those that were turned in to us by the roads, and if those terminals were not reported, they naturally in 1939 did not employ switch engines, but did the work with road power.

By Chairman Aitchison:

Q. Do you think they did that in Portland?

A. No, sir. I believe that the Spokane, Portland & Seattle does a good bit of the work in Portland, with the exception of some work that is done by the Union Pacific. As to whether the Union Pacific maintains switch engines or not, I could not say right at the moment.

Q. Did you ever hear of the Portland Terminal Company?

A. It is shown, Portland is shown as one of the switching points under the Union Pacific.

Q. It is not on the map.

A. If it is not on the map, it is merely an omission.

Mr. Plunkett: There is a red dot there, your Honor.

Chairman Aitchison: That red dot is located approximately at The Dalles.

Mr. Plunkett: Then it is merely an inaccuracy, in making it up.

The Witness: It may be an inaccuracy in the map. It [fol. 4360] was taken from an outline map, and the position of the towns may not be just absolutely accurate; but the list that we used is the list that is contained on pages 22 and 23, and of course those are the only ones reported.

Mr. Plunkett: And only 20 of those showed classification yards.

Chairman Aitchison: Portland is indicated there, but it is not on the map, and Umatilla is not on the map, although it is referred to on sheet 23.

The Witness: Well, Mr. Chairman, we attempted to put all of the points on the map, and if there were any that were omitted, it was done inadvertently, of course.

Chairman Aitchison: Well, I have called attention to two.

The Witness: The location of the points, however, is accurate, from the record.

By Mr. Plunkett:

Q. Well now, Mr. Vivian, the red dots are the actual points used in the Automobile study, the study in the Automobile Case, Docket No. 28190; is that correct?

A. Yes, sir.

Q. It may be that you do not have all of the black dots that should be on the exhibit; is that correct?

A. That is possible.

Q. But if that is so, the disparity which you are going to [fol. 4361] speak of would be enhanced, would it not?

A. Yes, sir.

Q. Proceed.

A. It will thus be seen that the percentage studied of carrier terminal switching points in the Automobile Case was very small, being 9.05 per cent for the reporting roads. In addition to these roads, in the West there are 26 Class 1 carriers which did not participate in the cost studies in the Automobile Case. These roads have 120 classified terminals where carrier terminal switching is performed.

It will thus be seen that in reality the points studied in the Automobile Case are only 7.9 per cent of the classified terminals. None of the large switching or terminal carriers participated in this automobile study, which further tends to disqualify the Automobile Case results as typical of all traffic.

Q. Now, in discussing page 29, you had reference to that portion of Dr. Edwards' Exhibit No. 11 in which he argues that the results in the Automobile Case support the assumptions which he made in this proceeding; is that correct?

A. Yes, sir.

Q. Have you prepared a chart showing a typical yard layout used in originating automobile traffic?

A. Yes, page 24. This page shows a typical layout of a terminal, Janesville, Wisconsin, on the Milwaukee Railroad, [fol. 4362] where automobiles originated in considerable quantity during the period of the automobile study. This example is given as illustrative of the fact that the results in the Automobile Case represent the handling of automobiles only and are not representative of the handling of all types of traffic.

In this particular terminal, an assembly plant is located a short distance south of the principal classification yard and large strings of cars were handled empty into the plant and loaded out.

As will be noted, other industries are scattered throughout the community, some of them being at considerable distances from the principal classification yard and requiring in some instances several classifications as well as transfers of a car from the principal classification yard or train yard to the industry or the reverse.

In moving to the industries, other than the automobile plant, considerably fewer cars were handled, as these plants are not as large as the assembly plant. This resulted in minutes per car for industrial service other than the automobile assembly plant greater by three times than the time required to handle the industrial work at the latter.

In communities where automobiles are terminated, these automobiles are in a majority of instances unloaded on automobile platforms, which are usually built adjacent to train [fol. 4363] yards or are located in the business district of the various communities. Again, we have a comparison of a movement to an automobile platform located in the heart of a community versus the switching to industries scattered

throughout the entire city and, in many instances, with the larger industries located on the outskirts of the city. It will thus be readily seen that the movement of cars from the classification yards to the industries will entail much more work than the movement of cars to automobile platforms.

This indicates that the automobile results cannot be used to justify the general movement of all freight.

Referring once more to the situation at Janesville, Wisconsin, the movement of automobiles does not and cannot involve interchange switching as the automobile assembly plant is jointly served by both the Milwaukee Railroad and the Chicago & North Western Railway, which obviates any movement of automobile interchange switching at Janesville in so far as the traffic under review in the Automobile Case was concerned. Thus, Dr. Edwards is unable to compare interchange switching at Janesville with carrier terminal switching. This is only typical of conditions that exist at other points.

Dr. Edwards has compared the results of carrier terminal switching in the Automobile Case in a series of communities with interchange switching at a different set of towns. [fol. 4364] He, thus, has invalidated any true comparisons, as the correct and only comparison for the automobile traffic is a comparison of interchange switching in the same communities as the carrier terminal switching.

No attempt has been made on the part of the carriers at any of the terminals under review to analyze carrier terminal switching or interchange switching on all traffic and, inasmuch as the interchange switching comparison with carrier terminal switching in the Automobile Case is faulty in and of itself, the conclusions reached by Dr. Edwards are obviously improper.

Q. Dr. Edwards uses the percentage of circuity which was developed in the Automobile Case traffic test as being typical of all traffic, which he says should be used in connection with class rate traffic. Do you agree with him?

A. I do not. On page 18 of Exhibit 11, Dr. Edwards gives consideration to circuity in connection with the movement of all traffic. Conclusions were based on the study of movement of automobiles during the year 1938 in I. C. C. Docket 28190. In this study, 53,745 cars of automobiles were terminated on which Dr. Edwards based the circuity shown in Exhibit No. 11 in this case. This number of automobile cars terminated should be contrasted with the 195,990 cars of

automobiles terminated in the United States during the same year and with the 21,288,400 cars of all traffic termi-
[fol. 4365] nated in the same year.

Thus, it will be observed that the studied cars on which Dr. Edwards based circuity represent only 27 per cent of all cars of automobiles terminated and one-fourth of one per cent of all carload traffic terminated.

It must be kept in mind that the sampled movements of automobiles were for the most part confined to main lines of railroads. Whether movements of automobiles principally over main lines are representative of all traffic so far as circuity is concerned is highly debatable.

In the Western states alone, there are over 9,000 incorporated cities and towns which produce potential point-to-point movements in excess of 80 million.

In summarizing the situation, after consideration is given to the small number of movements studied in the West, 47 in number,——

By Chairman Aitchison:

Q. What do you mean by that?

A. There were 47 movements of automobiles analyzed.

Q. You just stated that there were 53,745 cars, did you not?

A. That was in the entire United States. In February there were 93 movements throughout the entire United States, 47 of them being in the West.

Chairman Aitchison: Continue.

A. —and for a single class of traffic moving over, for the most part, main lines of carriers, against the potential point
[fol.4366] to point movement when all traffic is under review, it is maintained that the per cent of circuity used by Dr. Edwards can by no means be considered representative for use in dealing with all traffic.

By Chairman Aitchison:

Q. Do you have anything better to suggest?

A. No.

Q. Do you have any idea you can express as to what the percentage of circuity should be.

A. Certainly higher than that which was shown in the Automobile Case.

Q. How much?

A. I could not say, because I have not analyzed it, nor do I have the information available upon which to predicate such a conclusion.

Q. Referring to your 9,000 incorporated cities and towns, producing a potential point-to-point movement: the greatest amount of movement between small places would be expected to be between places which are relatively adjacent, would it not?

A. Yes, it would be, yes, sir.

Q. And where the circuity involved, therefore, would be small, if there were any at all?

A. That might be true.

Q. Well, is it not true?

[fol. 4367] A. I would not say necessarily so.

By Com. Alldredge:

Q. Did the Federal Coordinator of Transportation make some circuity studies?

A. Pardon me?

Chairman Aitchison: The question is: Did the Coordinator of Transportation make some circuity studies.

The Witness: I do not know. I have not seen anything. Are you referring—pardon me—to the 1933 studies?

By Com. Alldredge:

Q. Yes.

A. I am sorry, but I could not hear you.

Q. I said "Yes".

A. There may have been. There was a very large volume of material, and there may have been some such figures in there.

Q. Well, that is one of the things that he dealt with, is it not?

A. Well——

Q. If you recall?

A. I do not recall, because there were too many figures percentage, and they are too old now anyway.

By Mr. Plunkett:

Q. Proceed.

A. Referring next to page 29: Page 29 is a statement of tons originated and terminated for each of the five groups

of I.C.C. commodities for the states of Illinois, Indiana, Michigan, Ohio, Iowa, Minnesota, Missouri, Wisconsin, and [fol. 4368] Nebraska, years 1940 and 1941.

Page 30 is a statement of freight traffic density for states of Illinois, Iowa, Minnesota, Missouri, Wisconsin, and Nebraska, years 1922 through 1941 for Western Class 1 roads. Both of these pages are believed to be self-explanatory.

Q. Were those pages of the exhibit prepared in connection with requests of some of the Mid-Western shippers for an extension of the Eastern Classification into their territory?

A. Yes, sir.

Q. Have you prepared any statements relating to Dr. Edwards' Exhibit No. 12 in which he deals with out-of-pocket costs?

A. I will discuss this subject in connection with the third section, which has to do with the formula employed by Dr. Edwards.

Q. Before taking up Section III, have you a few corrections to make in this section?

A. I have. Errors appeared in the drawing of Schedule "H", (page *III*) and are as follows:—

By Chairman Aitchison:

Q. Why were these pages not numbered?

A. In answer to that, Mr. Chairman, I will say that it was impossible for us to get this exhibit printed, and here, in the time that we were required to present it in, and number the pages consecutively from one end to the other, for the [fol. 4369] reason that we found it necessary to insert pages as we went along.

Q. Well certainly these exhibits, if they are to be helpful to the Commission, have got to be prepared in such a way that all parts of them are readily accessible.

A. Well, we figured that it would be in accordance with the Rules of Practice, and I am very sorry if it is not. In the lower half of the first column, the blocks enclosing——

By Mr. Plunkett:

Q. The first column is the one to the left, is it not?

A. Yes.

By Chairman Aitchison:

Q. What are you talking about?

A. —Intra-Terminal Switching-Loads; Inter-Terminal Switching-Loads; Other Switching-Loads; and Other Switching-Empties; and in the 7th column, the block enclosing "Intermediate-Switching-Loads" should have been printed in black rather than in red.

By Mr. Plunkett:

Q. Just a moment, please, Mr. Vivian. What should be done with the ones which you have been discussing in column 1? They should be in black instead of in red; is that correct?

A. They are printed in red, and they should have been printed in black. Now that was caused by the fact that these blocks or items, are not used, and we are presuming by this to show that when they are determined, if they were [fol. 4370] to be used uniformly, they would be actual figures.

Q. Proceed.

A. Also in the 7th column at the center of the page——

By Chairman Aitchison:

Q. Are you counting your columns from the left?

A. Yes.

Q. Well, are you going to count them at the top of the page, or at the bottom? In other words, you have more columns at the bottom than you have at the top.

A. It is in the lower section, Mr. Chairman, and is the top block in the 7th column from the left, and reads "Carrier terminal switching, freight house at origin and destination-loads. Special computation H-39." Out of that, in the middle of the block, there is a black arrow which reads "To TS-26." That should read "To TS-16."

By Mr. Plunkett:

Q. Have those corrections, Mr. Vivian, been made in the chart that has been hung up here?

A. Yes, sir, they have been, and the pages conveyed in this exhibit, Nos. 1, 2, 3, 4, are so printed that they may be used to make a complete chart similar to the wall chart.

As a matter of fact, we simply took copies of those four pages, and made the wall chart out of them.

Chairman Aitchison: Well now, off the record.

(Discussion outside the record.)

Chairman Aitchison: On the record. Continue.

[fol. 4371] By Mr. Plunkett:

Q. Will you please explain, Mr. Vivian, what your chart of Dr. Edwards' formula depicts, and what the pages of this exhibit depict.

A. The diagrammatic portrayal of Rail Formula "A", which I am presenting, shows the multitude of items of data and sequences required to develop the final unit costs necessary to construct the cost scales set up by Dr. Edwards in his Exhibit 3. It does not, however, indicate the thousands of computations involved.

Q. Now, Rail Formula "A" was Exhibit No. 4, introduced by Dr. Edwards at St. Louis; is that correct?

A. Yes, sir.

Q. Proceed.

A. As always, it is necessary to begin with certain basic data upon which all subsequent computations and apportionments accordingly depend. From the legend appearing on page 3 of this diagram, it will be seen that each item of basic data is identified by a special symbol.

Where the basic figures were taken directly from the Carriers' Annual Report to the Interstate Commerce Commission, the data were accepted as being actual, although some of the information appearing in the Annual Report is obtained by arbitrary apportionments and prorations not wholly subscribed to by the carriers. Such data, accepted as being actual, are enclosed in black blocks.

[fol. 4372] Dr. Edwards, in previous testimony in connection with this proceeding, admitted the use of certain arbitrary material based on studies available, when substantiated actual data were not available. His Exhibit 2 contained tables designed to indicate the effect of small variations of estimated data in specific cases. Apparently no study was made of the full extent to which such estimates entered into the final results. By this chart I have endeavored to portray in visual manner the true extent of such estimations and assumptions in so far as the number of sequences affected is concerned.

Q. Now, as I understand it, where Dr. Edwards took the operating expenses from the annual reports of the carriers, which the carriers had separated between freight and passenger service, you took the separation as being actual; is that right?

A. Yes, sir.

Q. But as I understand it, you do not fully subscribe to the accuracy of such separation?

A. That is right.

Q. But for the purposes of this chart, you have considered such separation as being actual; is that correct?

A. Yes, sir.

Q. Proceed.

A. Items of basic data not taken from the Carrier's [fol. 4373] Annual Report show the sources from which they were obtained and if those sources did not possess elements to substantiate the accuracy of the data such items were considered estimates and so identified by being enclosed in red blocks.

Where it was found that apportionment factors or weighting factors upon which distribution of expense or other calculations depended, were not fully explained as to their accuracy, they were classed as estimates and accordingly enclosed in red.

Q. Can you give us an example of that?

A. The 85 and 15 per cent used in station service.

Q. Just a moment. 85 per cent to station, and 15 per cent —where?

A. 85 per cent—well now, I have forgotten. Just a moment, please. There are too many of these percentages, for one to be able to remember them all. 15 per cent running, and 85 per cent to station.

Q. Rail Formula "A" as used by Dr. Edwards, provides for this arbitrary separation, which was based upon a study made in some other proceeding; is that correct?

A. I believe so.

Q. The details, however, of that study, or the support for it, were not included in Dr. Edwards' study in this proceeding, were they?

A. No, sir.

[fol. 4374] Q. Proceed.

A. As will be readily understood, each sequence represented by a block on this diagram, which has in its makeup any item or part of an item of basic data or has been in

any way affected by an apportionment or weighting factor which has been considered an estimate, will itself be only of estimated value. By virtue of the innumerable ramifications of Rail Formula "A" the estimated items pyramid one upon the other until the final costs, which represent the prime purpose of the formula, are very complex summations of hundreds of estimated components.

An indication of the number of estimates contained in the formula, without attempting to determine the actual number composing each sequence, is obtained when consideration is given to the fact that of 117 items of basic data, 59 are considered estimated; and, of 500 sequences, other than basic data, 458 are considered wholly or partially estimates.

There were involved in the construction of the cost scales contained in Edwards' Exhibit 3, one hundred and sixty-two roads or parts of roads. Giving no consideration to additional computations required to separate roads by territories, assuming that it was only necessary to apply the formula to each road or part of a road on the basis of operating in a single territory, the use of the formula, [fol. 4375] Schedule "A" through the Territorial Summary, would entail approximately 19,000 items of basic data, of which not less than approximately 9,000 would be estimates. It would involve also the use of approximately 76,000 sequences other than basic data, of which not less than 69,000 would be estimates.

The chart has been based on the application of the formula to a road operating in a single rate territory. In those instances where the formula is applied to roads operating in more than one rate territory the number of estimates is considerably increased as there is no accurate method of splitting the data into amounts rightfully belonging to the portions of the roads operating in each territory.

This condition exists because the accounting rules of the Commission, which the carriers are required to follow, do not provide a breakdown of carrier operations adequate in the light of the requirements of this cost formula.

To maintain accounting procedures which would produce adequate statistics for use under this formula would require increasing to a great degree the cost and manpower in the carriers' accounting department. A doubt exists as to whether the results obtained would warrant increased expenses.

By Chairman Aitchison:

Q. Right in that connection, Mr. Vivian, You have [fol. 4376] participated in a good many of these increased rate cases, have you not?

A. Yes.

Q. There are quite a number of lines of the character you indicate, operating in more than one territory, are there not?

A. Quite a number of them, yes.

Q. How many?

A. Why, I believe that there are some 34, or something of that kind, in his study. I am not positive, however.

Q. Well, now, has any difficulty been encountered in previous rate cases, in making a presentation of the revenue needs of such carriers?

A. We have never attempted to my knowledge to separate roads as between territories, as far as operating expenses and taxes, and things of that kind, are concerned, and evolve them into a cost formula.

Q. In presenting the revenue needs of the carriers in previous increased rate cases, has any difficulty been encountered by the carriers in making their presentation,—that is, any of the 30-odd roads that are operating in more than one territory?

A. Why, in so far as the preparation of the data that were used in those cases was concerned, no, sir.

Chairman Aitchison: Proceed.

[fol. 4377] By Mr. Plunkett:

Q. But in those cases, Mr. Vivian, did you break down the revenue needs of the carriers in the territories in which they operate?

A. In so far as the state cases are concerned, that have been heard before state commissions, the revenue is maintained separately for each state, so that it is an actual figure. No attempt, however, has ever to my knowledge been made to break down the revenue as between territories,—unless something of that kind has been done in some divisions case that I have not happened to participate in.

By Chairman Aitchison:

Q. Why, my dear Mr. Vivian, you have had cases, increased rate cases, that involved Official Territory, have you not?

A. Yes.

Q. And where part of the lines operated in other territories as well?

A. That is right.

Q. But you included them, just the same, did you not?

A. Oh, we have made traffic analyses on the revenue involved in the particular case, but we have made no attempt to split a road down.

Q. Absolutely, and that is just the fault, in many instances. In Ex Parte 87, for example, you were not bothered by the fact that the Milwaukee Railroad operated partly in North Pacific Territory, were you?

[fol. 4378] A. No, sir, we were not bothered, as far as that particular proceeding was concerned.

Q. Or the Northern Pacific, or the Great Northern.

A. No.

Q. Or the Union Pacific, or the Burlington.

A. No, sir, because we were able to analyze our traffic for the particular case that was involved.

Q. I am talking about your revenue needs, now.

A. Yes, sir, and that is what I am referring to also.

Q. And you did not attempt to split the Illinois Central, or the Wabash, or any of the other lines that I have mentioned, did you?

A. In those cases, Mr. Chairman, we obtain the revenue through traffic tests covering the territory and the rates that are involved.

Q. Do you want to testify here, Mr. Vivian, that in the increased rate cases you obtained the revenue by traffic tests?

A. Where traffic tests were necessary, yes, sir.

Q. Did you not put Mr. Wettling on the witness stand, or somebody else from his department, to present agricultural studies, and other studies in connection with the revenue needs of the carriers?

A. Oh, we have drawn many agricultural studies.

Q. Answer the question.

[fol. 4379] A. Yes. I say, we have.

Mr. Plunkett: Did your Honor have any further questions?

Chairman Aitchison: Well, I just wanted to find out why the carriers wanted to get more money, and if the sort of showing that this witness is criticizing here, that has been made by Dr. Edwards, is good enough.

By Mr. Plunkett:

Q. As I understand it, Mr. Vivian, the point that you are making in connection with this breakdown of territories is that Dr. Edwards' cost study required the breakdown, and it was made, as far as could be done, by the carriers, and where it could not be done, it was broken down on some arbitrary basis; is that correct?

A. Yes, sir.

By Chairman Aitchison:

Q. And where it could not be broken down, if you had taken the whole railroad, you would simply have been following your own precedent in the increased rate cases, would you not?

A. Well, if we had taken the whole railroad, we would have violated his principle, the principle on which he was working, of breaking down the individual territories.

By Com. Splawn:

Q. It is not practical, then, you think, to break it down into indivdual territories, except for general prescriptions; is that correct?

A. Yes.

[fol. 4380] Q. The situations with respect to rates and revenue have to be looked at as a whole, have they not?

A. Yes.

Q. And we have to look at the country as a whole, and not simply at any small subdivision thereof, have we not?

A. Oh, that is correct, certainly; we cannot look just at a particular rate territory, where roads that compose that rate territory also operate in other territories.

By Com. Alldredge:

Q. So that, then, if there are differences in the rate structure in Southern Territory, say, for example, it is

not possible, from your point of view, to determine definitely whether they are reasonable or not; is that your testimony?

A. Well, I am very sorry, Mr. Commissioner, but I do not just follow your question.

Q. Well, put it this way: If you cannot cost that territory, under your view, how are you going to determine whether or not the rate structures are reasonable, when they differ in the territory?

A. Well, I do not believe, Mr. Commissioner, that costs can be set up by rate territories when roads split a territory.

Q. But the rates are set up that way, as a matter of fact, are they not, Mr. Vivian?

A. I would not attempt to say as to how rates are made, Mr. Commissioner.

[fol. 4381] Q. I see.

A. Because I am not a rate man, and I do not know anything about it.

Q. You will let the record speak for itself as to that, then, I take it?

A. I would, yes, sir.

Mr. Plunkett: May I proceed, your Honors?

Chairman Aitchison: Proceed.

By Mr. Plunkett:

Q. Please continue, Mr. Vivian.

A. In this connection I wish to cite several statements of Sir William M. Ackworth, shown in full on page 27 of Section II of this exhibit and taken from a publication cited by Dr. Edwards as authoritative. The substance of these statements is "the bulk of the expenditure is incurred on behalf of the traffic as a whole."

He also relates some of the history of the establishment of the I.C.C. and its efforts to secure division of expenditures between freight and passenger and casts a doubt on whether "the information now furnished will be found to be worth the very considerable cost incurred."

The use of Dr. Edwards' formula involved splitting the data of 14 western roads into from 2 to 4 parts each in order to develop his study by the several rate territories.

Chairman Aitchison: Just a moment, right there.

By Chairman Aitchison:

Q. Returning again for a moment to the same matter [fol. 4382] that you and I were discussing a moment ago: When any of these 30-odd lines that operate in more than one territory petition the Commission for leave to abandon a line, they do not have any trouble, do they, in showing the cost of operation on that particular branch line?

A. Why, I believe not, although I have not participated in an abandonment case for a great many years.

Q. And they do not have any difficulty, in spite of the fact that they operate in more than one territory?

A. How is that?

Q. I say, they make that showing, although they do operate in more than one territory?

A. Yes.

Q. Well then, I would like to have you tell me how you can do it so readily in abandonment proceedings and yet find it so extremely difficult in a rate proceeding.

A. Well, Mr. Chairman, I do not know that I am really qualified to discuss any of the later abandonment cases, because, as I just stated, I have not participated in an abandonment proceeding for a good many years. I understand that the methods used now, and I believe those prescribed —although I am not sure—are entirely different.

Q. There are none prescribed.

A. Well, all right.

Q. Although we may suggest, in various cases, certain [fol. 4383] tests, what we want and what we are required to get, are the facts.

A. Well, I know that in the earlier cases the situation was quite different, entirely different, than it is in the later cases, from discussions that I have had with various accounting people. That is about as far as I can go, as to what is being done in abandonment cases at the present time. I do not know definitely.

Chairman Aitchison: Very well.

By Mr. Plunkett:

Q. But, Mr. Vivian, is it not true that abandonment cases involve short branch lines?

A. Yes, sir.

Q. Or at least, relatively short branch lines?

A. Yes, sir.

Q. Usually in one rate territory?

A. That is generally true.

Q. Although sometimes they may cross into other territories.

A. Well, as I say, I have not participated in an abandonment proceeding for a good many years.

By Chairman Aitchison:

Q. But they are frequently parts of rail lines which have constant expenses, even though they do operate in more than one rate territory, are they not?

A. Yes.

By Mr. Plunkett:

Q. Is it not also true, Mr. Vivian, that, in connection with these abandonment cases, a special study is made, not a general office study, but a study on the [fol. 4384] ground, if necessary?

A. I believe that is true, yes, sir, although, as I say, I do not know that of my own knowledge, because in the later cases they have changed their methods considerably; but I understand that to be true from discussions that I have had with various accounting men who have participated in such cases.

Q. That is, abandonment cases are handled by the individual roads involved, as a general thing, are they not?

A. Yes, sir.

Q. So that you do not get in on them?

A. No, sir; we do not get in on any of them.

By Chairman Aitchison:

Q. You are not positive about this survey on the ground, that you refer to, are you?

A. As I have said, only from discussions that I have had with various accounting people who have participated in such cases.

Q. Well now, what would an accountant do, if he got out on the ground?

A. Well, going out on the ground by myself, a good many times I have been able to visualize situations a whole lot better than I would have been able to do in the office, and

I have therefore been able to arrange my work better, in making studies of different kinds, so that I would be able to handle it more intelligently, I would say, than other-
[fol. 4385] wise.

Q. You go out and get a picture of the situation, and then go back to your office and make the study there, do you not?

A. No, sir, usually it leads right directly into the expenditures in the Division Offices.

Chairman Aitchison: Read that answer.

(Answer read.)

By Chairman Aitchison:

Q. I do not understand that answer at all, Mr. Vivian.

A. In other words, the Division Offices are where the expenses originate.

Q. Yes?

A. And that is where the field tests are started, in so far as expenditures are concerned.

Q. Well now, with respect to the common expense, which is the thing that I am talking about now, the Division Offices do not have anything to do with that common expense, do they?

A. Well, they have common expenses that they will report, that may go between divisions, and then they will have common expenses between freight and passenger. Possibly, Mr. Chairman, you are referring to, or thinking about, general overhead expenses,—is that correct?

Q. Yes.

A. Well, of course, they would not have that, no.

[fol. 4386] Q. An accountant would not be able to survey the situation very much by going out on the ground, would he? He would not find any of his figures there, for example, would he?

A. Well I say this, that in the starting of a test of any kind, the place to go is out on the ground itself, to find out how the operation is being conducted; and from there, directly to the Division Offices, in connection with direct expenses.

Q. Did you do that before you came to the Commission and asked for an increase of 15 per cent in your rates?

A. We have not prepared any cost studies in connection with the 15 per cent increases.

Chairman Aitchison: Very well.

By Mr. Plunkett:

Q. Proceed, please.

A. Each of these carriers was requested to furnish the breakdown of expenses and operating statistics in accordance with the geographic areas supplied. On the whole, the boundaries of the territories follow state lines and it was possible to use data supplied to the various state commissions.

Even in this regard the methods of roads differ. At least one has accounting divisions which break on state lines making the job comparatively easy. Others worked from the standpoint of operating divisions which, because they do not always break on state lines, required estimated pro-
[fol. 4387] ration of divisions crossing state lines.

It should be recognized that even the use of data from Annual Reports to State Commissions is not reliable for use in this formula. The expenses of large facilities such as terminals and shops are allocated to the states in which they are located, although the services of these establishments are accorded to traffic moving through several states or rate territories.

The separation of statistics to secure territorial traffic units presents difficulties of ascertainment of a similar nature.

To summarize this point, the segregation of information as it is done today, may probably be adequate for the purposes of Annual Reports to State Commissions or for managers of the property, but is not reliable for cost-finding purposes.

By Chairman Aitchison:

Q. Right there, would you mind explaining to us what you consider to be the purpose of the Annual Reports to the State Commissions?

A. Why, I do not know that I can, Mr. Chairman, other than the fact that the State Commissions want information, and have taken that method to obtain it.

Q. Well then, how are you able to state whether or not the segregation is proper and adequate for the purpose of the

Annual Reports, if you do not know for what purpose the [fol. 4388] Annual Reports are made?

A. We have not had any complaint, to my knowledge, from any of the State Commissions in connection with Annual Reports, and it is upon that basis that I am making the statement.

Q. That is the basis for your statement that it may probably be adequate for the purposes of the Annual Reports?

A. Yes.

Q. Although you say now that you do not know what the purposes are?

A. Right.

By Com. Splawn:

Q. Do I understand, Mr. Vivian, that you are explaining how Dr. Edwards got this information?

A. Yes, sir—how the roads furnished it to him.

Q. He got it from the railroads?

A. Yes, sir.

Q. And now you are telling us that what the railroads furnished him is not reliable; is that correct?

A. Yes, sir.

Q. And you are not proposing to give us, in this record, information which is reliable?

A. No, sir. I do not have it.

By Mr. Plunkett:

Q. As a matter of fact, Mr. Vivian, has anybody got information that is reliable, for that purpose?

A. Not to my knowledge.

Chairman Aitchison: You have not been debarred in this [fol. 4389] proceeding from presenting it, have you?

Mr. Plunkett: No, your Honor, we have not been.

By Com. Splawn:

Q. You understood quite well the nature of the request when it was made, did you not?

A. Yes, Mr. Commissioner, but the time that was given the carriers was very limited, and they were told in some instances that they might estimate the figures, where they did not have the actual figures available.

Q. That is a matter in which you are quite experienced and expert, is it not? As a matter of fact, that is your profession, is it not?

A. Well, I would not say that it is our profession, no, sir.

Q. The making of estimates?

A. No, sir. There are many estimates that are made, of course; but the time that was given in this instance, even for estimates, was extremely small, extremely limited. To make an estimate usually requires considerable analysis of test periods that may be selected, to develop those estimates, on which to predicate the estimate for the period in question.

Q. As far as any of these infirmities which you have pointed out here are concerned, in any of these presentations, you have had more than one year in which to check and supply more satisfactory information, have you not?

A. Well, we were not asked to do so, Mr. Commissioner, [fol. 4390] and of course, as you know, the rail carriers are tremendously busy.

Q. You were merely asked for the information?

A. Yes, sir.

Q. And now you have come here, more than a year after the information has been supplied, to disclose at this hearing, or to advise us, that what you have done has been to supply something that cannot be relied upon; is that correct?

A. Yes.

By Chairman Aitchison:

Q. As a matter of fact, Mr. Vivian, it has been more than a year, has it not?

A. Well, the questionnaires were sent to the roads I believe in November of 1940.

Q. Yes.

A. And they were given ten days in which to reply.

Q. Have any of them suggested any correction in the figures since they have had an opportunity to check them at their leisure?

A. If they have, it has not come to my knowledge.

Q. Were you not given access to the work sheets of Dr. Edwards' study in the fall, following the hearing at St. Louis?

A. I do not remember exactly when I received the permission. I know that I went to Washington within a week after

we were given clearance, and I obtained all of the working [fol. 4391] papers. I had copies of practically all of the working papers that were released to us, furnished by the Commission, through photostatic process.

Q. That is more than a yeaf ago, is it not?

A. Yes, sir, I believe that it has been more than a year ago.

Q. It was in hot weather, was it not?

A. The hearing at St. Louis was in July, I believe.

Q. 1941.

A. Yes.

Q. Yes.

A. But it was a couple of months after that, before we were given access to those papers.

By Com. Splawn:

Q. As far as Dr. Edwards' compilations and analyses of the data furnished to him are concerned, you have not found anything wrong with them, have you?

A. I am very sorry, Mr. Commissioner, but I could not hear the question.

Mr. Plunkett: Read it, please.

(Question read.)

A. Well, I have been trying to cite here, Mr. Commissioner, the things that I think are wrong with Dr. Edwards' compilations and analyses.

By Com. Splawn:

Q. Well, if I have understood your testimony correctly here, you have merely repeated what he told us himself when he put in his exhibit, as to how it was made up, and where he [fol. 4392] got the information, and you have simply given his procedure, as I understand it, as your criticism of his exhibit.

A. Right.

Chairman Aitchison: The record ought to show at this point, I believe, that the hearing at St. Louis was on July 10th and 11th, 1941, and that on August 28th, 1941, notice to the public was issued by the Chairman of Division 2, to the effect that requests for access to Dr. Edwards' underlying data were granted, subject to certain conditions, and

that an order to that effect would be duly served on the parties to the proceeding; and that order was dated the 28th of August, 1941, and was served on that data.

By Com. Splawn:

Q. May I ask you further, Mr. Vivian, with respect to these other exhibits which have been put in by the railroads, some of which they say they pulled out of the files, whether or not they are subject to the same infirmities which you say the information that you furnished to Dr. Edwards is subject to.

A. Well, I do not believe, Mr. Commissioner, that I am in any position to say anything about these other exhibits. I have not attempted to analyze them.

Q. Are we to give no weight to the testimony of the carriers, then, and set aside the record that they have made, because apparently they have taken no interest in this pro- [fol. 4393] ceeding in so far as giving us accurate information is concerned?

A. No.

Q. Has the general procedure with respect to the preparation of all of the material that has been presented to us, been similar to your own, in responding to Dr. Edwards' request for information for the preparation of this exhibits?

A. May I have that question repeated, please.

Mr. Plunkett: Read it, please.

(Question read.)

A. Well, Mr. Commissioner, I did not personally furnish anything to Dr. Edwards. It was furnished by the Western railroads individually.

By Com. Splawn:

Q. But you have found out how it was done?

A. Yes.

Q. And now you tell us that it cannot be relied upon.

A. Yes.

Chairman Aitchison: I think the record ought to show also that Dr. Edwards' exhibit was made available to the public on June 4th, 1941, as appears by the notice of the Commission to the public issued on that date by the Secretary of the Commission.

By Mr. Plunkett:

Q. Mr. Vivian, can you give us some idea of the vast amount of labor that it would require to make an actual separation by rate territories of the expenses of a railroad? Take, for example, the Milwaukee Railroad, which has a di-
[fol. 4394] vision that runs from Mobridge, North Dakota, to Harlowton, Montana, crossing the state line between North Dakota and Montana, which is the dividing line between Western Trunk Line Territory and Mountain-Pacific Territory, as designated by Dr. Edwards? Would it not be necessary, for example, in connection with the train service, to examine every time slip of a train crew and engine crew to determine the amount of time that would be chargeable to the one territory or the other; and not only that, but——

Chairman Aitchison: Well now, just a moment. One question at a time. I take the answer would be "Yes", to that.

The Witness: Yes, sir, the answer is "Yes."

By Mr. Plunkett:

Q. And would it also be necessary to examine the waybills, to determine the number of ton miles that were made in Montana and in North Dakota?

A. Yes, sir.

Q. And likewise to examine the train list made up by the conductor, to show the car-miles that were made in the two states respectively?

A. Yes, sir.

Q. And also the tonnage reports made by the conductors, to show the gross ton-miles that were made in the respective states?

A. Yes, sir.

[fol. 4395] By Chairman Aitchison:

Q. Now would you do all that, if you were asked by the president of that railroad for a report on that line as between the two states of North Dakota and Montana?

A. If the president of the Milwaukee Railroad wanted any information of that character, he would know the volume of work that he was asking the Accounting Department to do. There have been instances where it has been neces-

sary to split down pieces of line, and I know that the president of the Milwaukee Railroad has been informed at different times of the magnitude of an undertaking of that sort. If he wished to authorize it, however, he could do so.

Q. Well, supposing an attempt were made to abandon the last six miles of that line in Montana. Would you go through any such procedure, to get the data to submit to the Commission?

A. Well, sir, I do not know, because I do not know what the requirements are now, in abandonment cases.

By Mr. Plunkett:

Q. But it would be a very expensive proposition to make a separation as suggested by Commissioner Splawn; that is right, is it not?

A. Yes, sir.

Mr. Plunkett: May I proceed, your Honors?

Chiarman Aitchison: Just a moment, please.

By Chairman Aitchison:

Q. As a practical man, Mr. Vivian, you do not expect that sort of thing, do you?

[fol. 4396] A. I am very sorry, sir, but I do not get the purport of your question.

Q. That is, that a meticulous examination of that character should be made.

A. Oh, not if it can be avoided, no.

Q. You are constantly using approximations, allocations and apportionments, even as an accountant, are you not?

A. Yes.

Q. In the daily affairs of your road?

A. Yes, we are.

Chairman Aitchison: Proceed.

By Mr. Plunkett:

Q. But you know that they are approximations.

A. Yes.

Q. And you treat them as such.

A. Yes, sir.

By Com. Alldredge:

Q. Are they acted upon by the management of the road?
A. Pardon me.

By Mr. Plunkett:

Q. The question of the Commissioner is, Mr. Vivian: Are they acted upon by the management of the road?
A. Are they actually—what?
Q. No; are they acted upon by the management of the road?
A. Oh, yes, knowing the infirmities that are involved in [fol. 4397] the information, and the fact that the same infirmities may be in it, you might say, on both sides of the equation, where comparable figures are being prepared, one period against another.

Mr. Plunkett: Is that all, your Honor?
Com. Alldredge: Yes.

By Mr. Plunkett:

Q. Proceed.
A. One of the most important factors used in the final steps in the construction of Dr. Edwards' Cost Scales is the ratio of empty to loaded car miles by classes of equipment. As such information was not available in the carriers' records, the questionnaire covering this point had to be answered on the strength of the best basis available.

In so far as Western carriers are concerned, the different bases used were many, almost to the point of a different basis for each road reporting. Those based on test studies ranged from the year 1923 to the year 1940. Of 45 Western carriers, with whose methods reported in this connection I am familiar, 8 stated they could give no ratio, 33 made estimates and only 4 reported what might be considered actual data.

[fol. 4398] Territorial ratios based on returns of such doubtful accuracy cannot help but seriously cloud the dependability of Dr. Edwards' Cost Scales as an indication of the costs of handling traffic in the various territories.

By Chairman Aitchison:

Q. You do not mean in any way to impugn the good faith of the carriers that submitted this information to

Dr. Edwards, do you, as being anything but the best information they had available?

A. I beg your pardon.

Q. I say, you do not in any way attempt to impugn the good faith of the carriers which furnished this information to Dr. Edwards as having attempted to give anything but the formation they had available, do you?

A. No, sir.

By Mr. Plunkett:

Q. Mr. Vivian, if a given carrier did not keep its records in such a way as to show the actual number of empty miles made by boxcars, flat cars or refrigerator cars separately, any estimate they would make would be unsupported, would it not?

A. That is right.

Q. Except by general experience and general information?

A. That is right.

Q. Proceed.

A. Dr. Edwards' Rail Formula "A"——

By Com. Splawn:

Com. Splawn: May I interrupt you there, before you [fol. 4399] proceed.

Q. Did not Mr. Tassin tell us it was experience that counts and not formulas?

A. Yes. I believe he did say something like that.

Q. Who is better qualified to give the results of this experience than the people in the railroads who observe it?

A. I am not questioning that at all, Mr. Commissioner.

Com. Splawn: Proceed.

The Witness: Dr. Edwards' Rail Formula "A" treats interchange, intertrain and intratrain switching on a revenue basis which results in a load being charged with the cost of these types of switching on a length of haul basis regardless of the amount of switching service, in these classifications, which the car actually receives.

There are numerous routes of movement involving relatively short hauls, many of them under 100 miles where two or more carriers handle the traffic. By the treatment which Dr. Edwards has given to interchange his cost scales understate the cost of interchange service with respect to such movements. In contrast to this situation are instances

where cars are actually moved by a single railroad long distances and, of course, without interchange switching. There are numerous hauls which are local in character over these longer distances, and again, according to Dr. Edwards' treatment of interchange are in this instance [fol. 4400] overstated as to the interchange switching cost. We thus see that interchange switching is not a proper cost to be included in line haul expense. This is also true to a lesser degree of inter and intratrain switching as this switching varies with the operating conditions surrounding the territory involved. Yards are not always located at equal intervals, and above all the judgment of the operating officers as to whether inter or intratrain switching is necessary at certain points is a dominant factor.

At the Indianapolis hearing in this proceeding, Dr. Edwards introduced material which included an additional page to each of Schedules E, F and H of Rail Formula "A". Accordingly, three supplementary pages of diagram to show the sequences of these additions are incorporated in my exhibit. By the number of red blocks on the digrams it will be noted that by far the preponderance of the data are unsupported.

One of the principal features of Dr. Edwards' new material is the separation of costs as to variable and constant. The percentages that various accounts are variable with fluctuations in traffic are highly controversial. For example, Dr. Edwards considers the investment in equipment to be 100 per cent variable with traffic and the investment in road to be 50 per cent variable with traffic. On the basis of the investment being 15 per cent equipment and [fol. 4401] 85 per cent road, a composite of the two would be 57.5 per cent variable with traffic computed in Edwards' Exhibit 12, page 87, Footnote 1.

By Mr. Plunkett:

Q. Right there, did Dr. Edwards use the per cent of 57-½ in his computation?

A. I do not believe he did, because of the manner that he employs in treating his various parts of his investment.

Q. Proceed.

A. With such opinion I must stenuously disagree. I wish to call attention to page 25, Section II of my exhibit which shows graphically the index numbers representing

the variations in traffic and investment in Road and Equipment for the years 1921 to 1941 inclusive, using 1921 as a base. The investment, as shown on the Carriers' books is that investment used in transportation service and is represented by the solid black line while the broken line shows the fluctuations in the number of revenue tons carried one mile, revenue ton-miles being used as that is the amount of actual pay-load which must earn whatever returns are to be made. The solid red line shows what the index numbers of the investment would have been had Dr. Edwards' theory in this regard been correct. The basic data and computations are shown in the statement on page 26 of Section II of my exhibit.

The disparity between the actual investment and the [fol. 4402] hypothetical investment is obvious. The graph indicates that in 1929, the year of greatest traffic, prior to 1941, as evidenced by the volume of revenue ton-miles, the Carriers, according to Dr. Edwards' theory, did not have sufficient investment to the extent of $610,000,000. In comparison, in 1932, the year of greatest dearth of traffic, the Carriers had much more money invested in Road and Equipment than Dr. Edwards' theory would indicate necessary to the extent of $8,135,000,000. If this reduction in investment had actually been made it would have been necessary to increase the investment by $4,881,000,000 during the next several years to reach the level called for by the 1937 traffic level. Examination of the comparative position of the lines in the year 1941 discloses that again, in a year of tremendous volume of traffic, the Carriers lack sufficient investment in Road and Equipment according to the Edwards' theory to the extent of $1,424,000,000.

Q. Mr. Vivian, as I understand this page, the black line shows the actual investment of the railroads during the period from 1921 to 1941, inclusive?

A. That is right.

Q. The red line shows the investment which they would have had if the investment had varied with the traffic in the proportions which Dr. Edwards has used in his Exhibits 12 and 13?

[fol. 4403] A. That is right.

Q. Is that correct?

A. That is right.

Q. Between 1930 and 1941 the investment of the railroads has fluctuated only slightly, is that right?

A. That is right.

Q. Whereas during that period the traffic has fluctuated violently?

A. That is correct.

Q. As shown by the black dotted line?

A. Yes.

Q. Would you say that this indicates that the investment in Road and Equipment does not fluctuate 100 per cent so far as equipment is concerned and 50 per cent as far as road is concerned?

A. Yes.

By Chairman Aitchison:

Q. If you had more equipment, you would be hauling more traffic, would you not? You could, could you not?

A. I do not know that that would be true. It would ease our present situation, but I do not believe we would be handling any more traffic. I think we have handled all the traffic that has been offered, Mr. Chairman.

Q. Are you sure of that?

A. As far as I know; I have not seen anything to the con- [fol. 4404] trary, and I try to keep myself posted on the general conditions of the carriers.

Q. You know that every effort has been made through the public press by important railroad officials and government officials to urge that travel be cut down and that unnecessary transportation of goods as well as passengers be avoided, do you not, cross-hauling eliminated and the like?

A. Yes.

Q. Then why not be frank about it and say so?

A. Well, I do not believe that that reflects the fact that we have not handled the traffic that has been offered, Mr. Chairman. We may have handled it in a different manner than we previously did. That might be true.

Q. Do you not think you could handle more traffic at the present time if you were in shape to transport it?

A. No, I do not. I think we are handling all the traffic that is offered. We are handling it in a different manner, in accordance with the various orders of the ODT.

Q. I do not doubt that.

A. And the Commission.

Chairman Aitchison: I am not attempting to find any fault with respect to that at all. I think you have done the very best you could with the plant that you have. What I am getting at is this:

[fol. 4405] By Chairman Aitchison:

Q. Have you not, since we have been here in this very city, in this very hearing room, heard of cases where it is necessary at the present time to curtail travel?

A. There are orders out to curtail travel.

Q. And that with respect to this very proceeding, this Commission has been asked by the ODT to set no hearings which will involve travel, for a month. Now, if you had all the equipment that was necessary, do you not think you could transport people to hearings, conventions and things of that sort?

A. Yes. I suppose that would be true, but at the same time there is the other side of the picture, that by attending conventions they are probably putting in time doing something that they could dispense with; and that is my understanding of the request to curtail, in order that everybody may be putting their efforts in on the war directly or indirectly according to their line of work.

Q. Oh, now, Mr. Vivian. Why is it that you have been attempting to get the W. P. B. to make a greater allocation of freight cars to you?

A. In order to ease our burden.

Q. In order to have cars, with which you can continue over the long run to transport the same volume of traffic which you are now transporting, or in order to increase [fol. 4406] the number of cars you will have available, in order that you can haul more traffic?

A. In anticipation of the increased production. I do not know, Mr. Chairman, and I am frank about it, of any time where the carriers have refused to accept any shipment because of inability to handle it.

Q. The shipper himself——

A. I am frank about that.

Q. The shipper himself has been cajoled, threatened and put under priorities and all that sort of thing simply to conserve transportation, has he not, among other things?

A. Yes.

Q. All right. If you had the equipment, you would be able to relieve that situation, would you not?

A. If we had additional equipment, certainly, but that does not mean that that service has been offered, and as I understood your question originally, it had to do with offered service.

Q. I mean that there is——

A. That we were unable to handle.

Q. I mean that there is available right now business which you cannot handle because you have not the equipment, and you know it.

A. No. I do not know that.

By Com. Alldredge:

[fol. 4407] Q. Is it not true that priorities system are in operation at the present time in some places on wheat in the West?

A. Yes.

Q. Of course, that is because they cannot handle it at all as it would normally flow, is that not true?

A. It is to keep the yards from being plugged, to keep it warehoused so that they can handle it.

By Chairman Aitchison:

Q. If you had more yard space, you would not have had your yards plugged, is that not true?

A. That might not be true, Mr. Chairman.

Q. It would help, would it not?

A. It would help, certainly.

By Mr. Plunkett:

Q. Mr. Vivian, what would have been the situation if the railroads had reduced their equipment and reduced their yards and roadway in 1930 to 1933 when traffic went down, as Dr. Edwards contends, or as his cost study shows that they did, as shown by this red line?

A. We would not have been able, in the short period of time we have had, to build the plant back up to the requirements of the present volume of traffic.

Q. Is that why the railroads maintained their plant as close as they can to meet the peak loads that they expect within a reasonable time in the future?

A. That is correct.

Q. Will you continue with your statement, please.

[fol. 4408] A. To carry even further I submit that in the first seven months of 1942 on the basis of I. C. C. Monthly Reports, the roads have carried 347,112,442,000 tons of revenue freight one mile as compared with 253,581,634,000 revenue ton-miles in the first seven months of 1941, an increase of 36.88 per cent. In the field of passenger service, in the first seven months of 1942, the roads carried 25,295,472,952 revenue passengers one mile compared with 16,108,795,121 revenue passenger miles in a like period of 1941, an increase of 57.03 per cent. This tremendously increased traffic has been handled in a manner satisfactory to the public and the Federal Government with practically no increase in investment.

This seems to indicate clearly that Dr. Edwards' treatment of the return on 57.5 per cent of the property investment as being a part of the out-of-pocket cost is improper.

By Chairman Aitchison:

Q. Do you mean to say that if you had been able to get the materials, you would not have increased your investment to transport this traffic?

A. No, sir, I do not.

Q. You would have done so, would you not?

A. We would have increased it, could we have obtained the materials. There are many cars and locomotives on order that we are unable to get because of inability to get [fol. 4409] the materials.

Chairman Aitchison: Proceed.

The Witness: As supplemental support in an attempt to justify the use of certain percentages of accounts as variable, Dr. Edwards cited excerpts from the literary efforts of several men whom Dr. Edwards recognized as authorities in their especial subjects. Careful study of the entire chapters from which some of these excerpts were taken indicates that these gentlemen agree, in general, that specific expense groups are variable with traffic. However, very little is said about any exact percentage variable in each expense group, much less individual accounts. There are a few individual accounts discussed. For example, Mr. W. Z. Ripley states in connection with train fuel "of this important expenditure for coal, from 30 per cent to 50 per cent,

is entirely independent of the number of cars or the amount of freight hauled", while Dr. Edwards considers this account 100 per cent variable with traffic.

Briefly, their views may be characterized by the following from Eliot Jones:—"The fixing of rates is an art, not a science. The apportionment of charges * * * is made by fallible men on imperfect data."

By Chairman Aitchison:

Q. Now, do you think that Mr. Jones was talking about costs or charges?

A. He was talking about the entire subject, Mr. Chairman.

[fol. 4410] Q. No, he was not. You have some stars there, showing that you did not quote his language in full.

A. That is right. I did that in order to shorten it.

Q. The words you left out were "as between different commodities".

A. That is right.

Q. He was talking about rates not about costs, if I read the English language correctly.

A. Well, I will say this, Mr. Chairman: The excerpts that appear on page 28 will speak for themselves.

Chairman Aitchison: Yes.

The Witness: The excerpts referred to in this connection will be found on pages 27 and 28 of Section II of this exhibit.

In summation, considering that basic data and apportionments are already estimated, the separation of expenses and statistics by territories is almost entirely estimation, that the ratios of empty to loaded car-miles are lacking adequate support, that interchange switching cannot be handled on a mileage basis and the numerous other points brought out in this exhibit and testimony, it can only be concluded that Dr. Edwards' Cost Scales are without value.

Mr. Plunkett: We offer in evidence Exhibit 191, if the Chairman please.

Chairman Aitchison: Is there any objection to the receipt [fol. 4411] in evidence of Exhibit No. 191? (No response.) Without objection, it is received.

(Exhibit 191, Witness Vivian, received in evidence.)

Chairman Aitchison: I would like to ask you one or two questions with respect to some of these authorities which you have cited on sheet 27—in connection with I do not know what.

By Chairman Aitchison:

Q. Sir William Ackworth was a very great authority, and his work was written in 1924, the one you have cited, is that not correct?

A. That is right.

Q. Has there been any progress in railroad accounting work since that time?

A. Yes.

Q. Do you know as a matter of common knowledge whether railway accounting in Great Britain has progressed to the same extent it had in this country, even in 1924?

A. I do not think it had. I do not believe it has today, because I do not believe that the British railroads have progressed to the extent the American railroads have in many respects. Their problems, as I understand it, are considerably different in many respects.

Q. For instance, they do not even have any ton mile statistics, do they?

A. I understand not.

[fol. 4412] Mr. Ripley's work was written in 1924 also, was it not?

A. That is correct.

Q. Mr. Ripley was pointing out that there is a large amount of common cost; is that not what you gather from his quotation?

A. Yes.

Q. Does not Dr. Edwards list a large proportion of common costs?

A. Yes. I am pointing out that Dr. Edwards used that particular authority, and all I have done is merely call attention to the fact that here is an instance where this authority and Dr. Edwards differ.

Q. With respect to the use of fuel?

A. That is right.

Q. Varying with the amount of traffic?

A. Yes.

Q. Do you ever apply that basis yourself in estimating your fuel needs?

A. 30 to 50 per cent?

Q. What basis do you use when you are estimating your fuel needs for the future?

A. Well, I do not believe that we use any percentage of the account as variable or constant. That being handled, of course, by the operating department and the purchasing department, I am unable to state specifically. I think our [fol. 4413] following witness may be able to answer that.

Q. Is it as much a matter of judgment as anything else?

A. Yes. I think it is, to a considerable extent.

Q. When you come to contract for your coal, somebody makes, in his own best judgment, an estimate?

A. In anticipation of the needs, yes.

Q. Does he have any idea of value?

A. Past performance.

Q. Past performance means traffic hauled, does it?

A. Yes.

Q. He uses that as his basis, and then makes his estimate?

A. I believe so.

Q. Generally speaking, the sum and substance of your whole discussion is an attempt to show the impossibility, generally speaking, of making an interterritorial cost study that will be representative, is it not?

A. That is correct.

Q. And in addition to that, you have advanced individual criticisms of methods employed by Dr. Edwards with respect to particular portions?

A. That is right.

Q. By and large do you take dissent from the general principle in cost accounting that the fixed costs are to be spread between the items which make up the service for which the costs are incurred in proportion to some definite factor?

[fol. 4414] A. I do to the extent that the apportionment of fixed costs—I presume by that you mean the general overhead costs of different kinds.

Q. I mean the fixed costs; the costs that are fixed.

A. All right. The methods that may be employed in making such apportionments must be very carefully considered, and if used, the figures are valuable to the extent only of comparing with like figures that have themselves been prepared on the same basis, territory by territory, and not a comparison between territories.

Q. Do you have any better formula or plan to suggest?

A. No, sir.

Q. Can you tell us where to look for more reliable data than Dr. Edwards employes?

A. No. I do not think that I can, other than the percentages that were adopted by the A.R.E.A. in connection with maintenance accounts, both maintenance of way and maintenance of equipment; I believe that those have stood many tests and are accurate.

Q. The "A.R.E.A." is the American Railway Association?

A. No; the American Railway Engineering Association.

Chairman Aitchison: Oh.

By Mr. Plunkett:

Q. That deals only with the separation between variable and non-variable expenses, does it not?

A. Yes. That is what I understood Chairman Aitchison [fol. 4415] to refer to.

Chairman Aitchison: I asked in my last question where we can get more reliable data, and I am referring to any data which is necessary for use in a cost study such as you have undertaken here.

The Witness: I do not know.

Chairman Aitchison: Have you anything further, Mr. Plunkett?

Mr. Plunkett: One more question.

By Mr. Plunkett:

Q. Mr. Vivian, referring again to some of the defects in the information furnished by the individual railroads to Dr. Edwards in reply to his questionnaire, did the railroads when furnishing that information, call attention by notation to the defects in the information furnished?

A. Some of them did; not all of them, however. There was a question as to whether they should raise the question in their letter of transmission or in connection with the returns themselves.

Q. Did some of them show that the information was estimated and that they did not have the actual information?

A. Yes.

Mr. Plunkett: That is all.

By Com. Splawn:

Q. You quoted someone to the effect that ratemaking is an art practiced by fallible men using imperfect data; I believe that was Eliot Jones?

[fol. 4416] A. That is right.

Q. Do you adopt that as your testimony?

A. Yes.

Q. The purport of your testimony, then, is that in this proceeding we will have imperfect data?

A. That is correct.

By Chairman Aitchison:

Q. We certainly have fallible men, have we not?

A. That is right.

Chairman Aitchison: You may cross-examine.

Mr. J. R. Bell. Mr. Chairman, may I make a statement?

Chairman Aitchison: Mr. Bell.

Mr. J. R. Bell: I have not seen any of these returns to questionnaire, but I have been informed that in making their returns where they had to depart from actual factual matter and make estimates within a comparatively short time, the returns of many of the carriers contain a reservation calling attention to the estimates and not vouching for them. I would like to ask Dr. Edwards if that is not a fact, because I am somewhat concerned about what has been said about the inaccuracy of the data, as though it were some fault of the railroads.

Mr. Edwards: We will have to check on that. Offhand we do not recall those reservations. You may be referring to the Automobile Case where all the carriers attached [fol. 4417] practically a standard reservation to our Rail Cost Form B. In this proceeding there was one carrier specifically that raised objection to the separations it was making and that was the Chesapeake & Ohio. That was one of the reasons we did not make a separation on that railroad and left it entirely in the Pocahontas territory.

Mr. J. R. Bell: I have not seen them. I am just going on information that has been given me. I want to clear this up, in view of the inquiries from the Bench. Is it not a fact that to the extent they had the factual matter, they gave it to you as factual matter, but in quite a number of instances, there was only a comparatively short time, a period of ten

days or so that they had to make estimates, and these were noted as estimates; and in many instances the railroads stated on the return that they did not feel they could vouch for the accuracy of those estimates?

Mr. Edwards: I do not believe that was true, generally.

Chairman Aitchison: I think you had better let an examination be made in Washington. They are there, subject to your inspection. This is an investigation by the Commission, a search for the truth. You have now had a year and a fraction in which to obtain information which would be more accurate and which could have been submitted to the Commission.

Mr. Hughes: Mr. Chairman, with respect to the colloquy [fol. 4418] relating to the reports of the carriers to state commissions, I think it is appropriate to call the Commission's attention to some language used by the Commission in its report in the Western Trunk Line Class Rate Revision bearing on that very subject.

Chairman Aitchison: Cite the page and volume. That will be sufficient.

Mr. Hughes: Volume 164, page 135.

Chairman Aitchison: All right. Is there any cross-examination of Mr. Vivian?

Mr. Smelker: I have some questions, Mr. Chairman.

Cross-examination.

By Mr. Smelker:

Q. Mr. Vivian, before going into your general testimony, I have two questions I would like to ask you. Referring to your quotation from Professor Ripley concerning percentages of out-of-pocket expenses, I will ask you if you read this portion of Professor Ripley's treatise to which you referred? After dealing with out-of-pocket expenses, he says this:

"The above estimate is qualified in some degree by this writer's subsequent observation that the costs of operation tend to decline as a matter of course until a condition of congestion of the existing plant is reached, at which point a new cycle of costs of operation and of profits makes its appearance."

[fol. 4419] A. Yes. I read that. That is contained in Dr. Edward's exhibit.

Q. Now, you have quoted Ackworth, Ripley and Jones, but you have not quoted Professors Dogett, Healy and Clark referred to by Dr. Edwards. Was there any reason for omitting the views of these economists?

A. No, other than the fact that I did not want to extend it out into too lengthy a proposition.

Q. In fact, they differ, do they not, from the thought of the other economists you have quoted?

A. I could not say. They may have.

Q. Did not the Bureau have members of its staff analyze, by field studies, the system of reports and accounts of each carrier over a two year period before programing its requests upon the carriers for information to be furnished in this proceeding?

A. I believe there was something of the kind done.

Q. You know it, do you not?

A. I know it only to the extent that I discussed the proposition with Mr. White prior to his death and I discussed with some of the auditors of the railroads the fact that men were in there from the Commission looking over the different forms of reports.

Q. Yes.

A. I did not see any of the actual survey, nor the results.

[fol. 4420] Q. Now, going back to the first part of your testimony, we will try to follow it as logically as we can. Is not the preponderant part of the total operating expenses directly assignable from the carriers' annual reports to the three major functional operations, namely, running, switching and station operations?

A. A large portion of it was put in directly as we have indicated on the chart. I believe we have correctly portrayed Dr. Edwards' formula in the diagrams.

Q. If you criticize the use of estimates on car days in switching service, what would you use? For example, is the factor of 1.75 days for loading and unloading a car high or low? What is your estimate?

A. I have not any estimate. I do not know.

Q. Then upon what do you base your criticism?

A. That it is an estimate.

Q. You have nothing to offer the Commission in lieu thereof?

A. No, sir.

Q. In chart 1, schedule B, you show running as estimated. What percentage of the expenses in running is estimated and what percentage is direct?

A. You will have to be more specific.

Q. Well, is not the estimated part a very small part of the whole, less than 3 per cent, for instance?

A. I could not say as to that. It is a small portion, we [fol. 4421] know, compared to the other.

Mr. Smelker: That is enough on that.

By Mr. Smelker:

Q. Does not an estimate as to even one small account serve in your graph to change the bracket of expenses from black to red?

A. Yes, sir.

Q. Is it not a fact that any errors in the estimates are compensating and cancel out in the average load and the average length of haul?

A. I would not say that, necessarily. I do not think so, even with a large study; I do not think that the law of averages would apply.

Q. Does not the Coverston-Sauer switching formula commonly used by the carriers before the Commission, provide relatively as many apportionments as the Commission's cost formula, Form A?

A. No.

Q. Can you give me any estimate?

A. No, I cannot give you any estimate, but you must bear in mind that the Coverston-Sauer formula was strictly a terminal formula and made no attempt to go into road accounts in any manner.

Q. You realize, do you not, that the switching factors used by Dr. Edwards were originally derived from an analysis of many switching cases introduced before the [fol. 4422] Commission, and that the Automobile case was used solely as supplemental evidence and had no effect on the study?

A. Yes.

Q. You say the Automobile case is not typical. How can you reconcile the fact that the cost for switching automobiles and the engine minutes required as noted in Dr. Edwards' Exhibit No. 11, page 9, approximates the

average developed independent of the Automobile Case?

A. From my analysis which I have made of the switching in the Automobile Case versus that which would exist on all freight, any likeness of the figures is purely coincidental.

Q. If the switching factors used are in error, have you any corrections to offer?

A. No, sir.

Q. On page 15 of your statement you say that large terminals and shops were allocated to states in which they are located, although the services are accorded traffic moving in several states. Does not Dr. Edwards' cost study treat of such shop expenses as system total, to be distributed according to traffic moving in each state, that is car miles, engine miles and so forth?

A. Yes. I believe that is right.

Q. On page 16 you criticized the distribution of intratrain and intertrain switching expenses on a car mile basis as yard and interchange points are not located at equal [fol. 4423] intervals. For the development of territorial average costs, is it not true that you must necessarily average out the differences between intermediate switching points?

A. I would not say that would be true, and bury it in road expense. I differ with Dr. Edwards in the treatment he has accorded that service.

Q. How would you treat it then?

A. Separately, just the same as terminal switching. It is just as important in its place.

Q. How would you show it for 100 miles against a 1,000 mile haul?

A. Well, you are considering the haul. You would know the number of times that intratrain switching had been performed, and you would assign it accordingly.

Q. Would that be true of every haul in the entire Western Territory?

A. That is the way you would have to treat it.

Q. If you treated it that way, would you not eventually come back to the car mile basis?

A. I do not think so.

Q. Are not almost all split roads in the West— and when I say "are not almost all split roads in the West", I mean, as far as running from one territory to another is concerned?

A. I do not remember how many there are in other territories.

Q. How many are there in the West?

[fol. 4424] A. 14, as I remember it.

Q. If you group the three Western territories together, as was done in Exhibit No. 13, do not the inaccuracies become minor compared to the total territorial expenses?

A. It eliminates the inaccuracies between the different parts of the road as the separate statements develop, if the entire carrier's operation is put in as one, yes.

Q. Is it not true that the Commision's Bureau made use of State data only after satisfying itself that the expense accruals were proper?

A. I cannot answer that. I do not know. The Bureau would have to say what they did.

Q. Is it not true that the Bureau used only the State separations as to maintenance of way and transportation expenses which can be directly assigned? Do you not know that?

A. No.

Chairman Aitchison: Would that not appear from the work sheets?

The Witness: It would appear only to the extent that the figures were combined to a rate territory for the roads that were broken roads. It would not show the individual State set-up.

By Mr. Smelker:

Q. Does not your graph on page 25 indicate that over the long term period 1921 to 1941, the investment has followed the traffic as Dr. Edwards indicated?

[fol. 4425] A. Yes, as Dr. Edwards indicated, but not as actually existed.

Q. Does not Dr. Edwards refer to the long term trend of investment in his study?

A. I believe so.

Q. Have not your equipment problems been temporarily relieved by heavier average loadings and reduced per cent empty return which may not continue after the war?

A. Yes. There are unquestionably a lot of measures in existence today that will not be continued after the war.

Q. If you cannot increase your plant, do not your operating expenses increase with added traffic faster than they otherwise would?

A. It depends on whether you have reached your saturation point or not.

Mr. Smelker: That is all.

Chairman Aitchison: Is there any further examination?

Mr. Plunkett: I have a few questions, Mr. Chairman.

By Mr. Plunkett:

Q. In your testimony, Mr. Vivian, you made the statement, "The expenses of large facilities such as terminals and shops are allocated to the states in which they are located, although the services of these establishments are accorded to traffic moving through several states or rate territories." You have that in mind, have you?

A. Yes, I have that in mind.

Q. You were interrogated regarding the shop part of [fol. 4426] that statement and asked if it were not true that shop expense was treated as system expense, and I think you agreed that it was.

A. That is correct. What I was referring to in my direct was the fact that shops and terminals are charged to the state in which they are located, so that the state reports have the full measure of the expense of the particular shop or terminal.

Q. So far as this cost study is concerned, is it not true that the terminal portion such as the yard expense and roundhouse expense of these terminals located near the boundaries of the rate territories would all be included in the territory in which the terminal was located?

A. So far as the apportionment between roads is concerned, that would be true. They would fall in or be reported to the territory in which they were located.

Chairman Aitchison: May I ask a question right there.

By Chairman Aitchison:

Q. You are speaking now of the roads which are interterritorial?

A. Yes.

Q. 14 of them are in the Western District?

A. That is right.

Q. Would it be possible to look over the situation and see how many of these yards and terminals there are that are close to the border, as counsel was suggesting, and let us [fol. 4427] know about them?

A. Yes. Of course.

Q. And contrast that with the total number?

A. Yes. That can be done.

Q. And also tell to what extent that would be offset by allocations in the reverse direction where the terminals happened to be in the territory?

A. Well, that would involve a considerable analysis of what Dr. Edwards has done in working up the information.

Q. Suppose you have a terminal such as has been described, close to the boundary, but in one territory on one of these 14 roads; is it not true that on that same road, on another part of the system, or on another road, you may find a comparable terminal in the other territory similarly situated?

A. Yes.

Q. So the two would wash out?

A. Yes.

Q. Now, considering the large number of these terminals in the country, the question is whether or not the criticism, after all, is a significant one, or whether it is lost in the total.

A. Well, it is part of the expense. It is true, it is not a large part of the total, but it is part of the expense.

Q. You cannot give any better estimate, can you, of the net effect on the total computation?

[fol. 4428] A. No.

Mr. Smelker: Mr. Chairman, I have this comment to make;——

Chairman Aitchison: Just a minute, please, Mr. Smelker.

Mr. Smelker: Pardon me.

Chairman Aitchison: Were you through, Mr. Plunkett?

Mr. Plunkett: I have just one more question.

Mr. Smelker: I beg your pardon.

Chairman Aitchison: Proceed, Mr. Plunkett.

By Mr. Plunkett:

Q. Regarding the table on sheet 25, section 2, dealing with the valuation in the investment account, in Exhibit No. 12, Dr. Edwards defined out-of-pocket costs as that portion of

the cost that varied directly with the traffic. Would you say that the table shown on page 25, or the chart shown on page 25, shows that investment in road and equipment vary directly with the traffic in the proportion Dr. Edwards has used?

A. I would say no, it does not.

By Chairman Aitchison:

Q. Suppose you had used the line of least squares; do you know what the result would have been?

A. No, I do not.

Q. Is it not a fact that in your graph on sheet No. 25, the year 1921 which you adopted as the base, was the year when you came out of Federal control?

[fol. 4429] A. That is right.

Q. Within a few months after that?

A. That was the first year after Federal control, the first complete year.

Q. The condition of all the carriers was that they were then under equipped and under maintained as a result of the Federal control period?

A. Generally speaking, that is correct.

Q. Thereupon, with approval of high authority and with the consent of the fallible men on this side of the table, a program was entered upon of extension of the railroad systems by bettering their consist, improving their equipment, overcoming the losses which were said to have accrued due to Federal control, getting heavier equipment, and becoming generally prepared to take care of the traffic which every one thought was a necessary part of the plateau on which we found ourselves, economically; is that not a fair statement?

A. Yes.

Q. So up until 1929 or 1930 that process was going on, and then as shown by your line, from 1930 to 1933 the investment remained constant, is that right?

A. That is right.

Q. In the meantime, what happened from 1929 down to 1932, as far as commerce was concerned?

A. Well, slangily speaking, the bottom dropped out of it.

[fol. 4430] Q. Then what happened since?

A. Gradually it built back until the war period, when it went up fast, outside of the recession year of 1938.

Q. I have heard the period from 1929 to 1932 spoken of by high authority as an "economic blizzard". Do you agree with that?

A. It certainly looks like it from past history, sir.

Q. You would not take the experience of that particular period, would you, as indicative of the truth or falsity of any theory?

A. That is pretty broad, Mr. Chairman.

Q. Well, I am confining it, of course, to the general subject before us.

A. All right. No.

Q. Is it not also the case that from 1930 to 1932 the carriers and the Commission alike were criticized widely and bitterly for a supposed over development of the plant?

A. Yes. I know there was quite a lot of criticism at that time of the carriers.

Q. If the experiences of 1931 and 1932 were to be taken as normal, or fairly to be taken into account as a basis for the criticism, the criticism would have been just, would it not?

A. Yes. That is right, for those years.

Q. But, as a matter of fact, it was not just?

[fol. 4431] A. The criticism was not just, no, sir.

Chairman Aitchison? Are there any other questions of Mr. Vivian?

Mr. Plunkett: That is all.

Mr. Smeiker: I have one comment to make, Mr. Chairman. It was not until this morning that Mr. Vivian's prepared statement was furnished to the Commission's representatives. Dr. Edwards and I have not had much time to get together on it.

Chairman Aitchison: Very well. Are there any other questions of Mr. Vivian? (No response.) If not, you are excused.

(Witness excused.)

Chairman Aitchison: Off the record.

(Discussion outside the record.)

Chairman Aitchison: Back on the record. Call the next witness.

Mr. Plunkett: Mr. Day.

Chairman Aitchison: Raise your right hand and be sworn.